Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No. _____

IN THE

Supreme Court of the United States

VAN LOCKWOOD,
3rd Party Standing,

Petitioners

vs.

JERE BEASLEY,
J. GREGG ALLEN,
WILLIAM G. O'REAR,

Respondents

Petition For a Writ of Certiorari
Judges Birch, Dubina, and Barkett
To The Eleventh Circuit Court of Appeal, Atlanta, Georgia

Judge U.W. Clemon
The United States District Court,
Northern District of Alabama

PETITION FOR A WRIT OF CERTIORARI

Dr. Van Lockwood,
Doctor of Laws/Jurisprudence
P.O. Box 40004
Jacksonville, FL 32203
904-519-2959

QUESTION(S) PRESENTED FOR REVIEW

Whether -Van Lockwood should have a right to a remand of his case on appeal because Lockwood took the following steps within the meaning of the FRAP 10(e)(1) on the following dates?

Whether October 1, 2007, I filed my Notice Of Appeal with my August 31, 2007 appealable order (mentioned) attached as one consolidated filings, filed at 4:31 P.M.? See Debbie Moore's affidavit, October 19, 2007, (Lockwood's Ex. D and Ex. E). See: Appendix K, Witness Affidavits.

Whether (October 2, 2007) next day, the clerk, Sonja Jenkins called me at 904-519-2959. She has the appeal notice and the $455.00. She leaves this message on my answering machine, **tape recordings** all about Sonja Jenkins District Court Clerk... "is this a developing FRAP 10(e)(1) problem...?" All of these three (3) cassette tapes under three filings have been destroyed, missing from the case, but evidence of their existings, I do hold....

Whether October 10, 2007, I am preparing my initialed Appellate Brief for the appeal; I want a copy of the docket sheet, nothing I filed is on the docket from **October 1, 2007 until October 10, 2007**, i.e.,

(a) No Notice Of Appeal, they have lost it!
(b) No 82-pages, Motion For Reconsideration filed @ District Court (October 1, 2007), that Court FRAP 10(e)(1), have detached it? "I hold proof" of filing these documents.
(c) I called the lower District Court, I was told Sonja Jenkins, clerk was out sick a few days and... it may be on someone's else desk?...

QUESTION(S) PRESENTED FOR REVIEW (Cont.)

I spoke to Delores Simmons Owens. Is this deemed to be a FRAP 10(e)(1) problem or dispute?

Whether October 19, 2007, 1 filed a motion notice. (I have a witness., See: Debbie Moore's Affs. App. K, a/k/a Ex. D.) and Ex. E. The motion notice presented to the District Court evidence "that I personally can show good cause" and "proof of filing" to include receipt docketing stamps from the United States Courthouse in Birmingham, Alabama, stamped October 1, 2007 and cancelled checks dated October 1, 2007.... Is this a FRAP 10(e)(1) problem?

Whether on October 25, 2007, I filed timely in the Eleventh Circuit Court a Motion To Stay Pending the Appellate's review until District Court had time to review the motion pending or address the issues ...., hints... I am informing them that we have a clerk (**problem**) reporting wrong dates and detaching documents. I felt the need to send the motion Registered Certified Mail Return Receipt requested.

I resent... all documents to U.S. District Court, proof of delivery. See: Lockwood's Ex. B signed by F. Callahan, U. S. District Court, Alabama, evidence (infra on Motion to Stay Certiorari) received on October 22, 2007 at 1 P.M. Yet, it does not **appear** on the **docket sheet**? Is this an FRAP 10(e)(1) dispute as to what really happened at District Court?

I have all the evidence to which I submitted timely to avert and "alert" the Court(s) as to these problems, "ongoing disputes" that Lockwood chal-

QUESTION(S) PRESENTED FOR REVIEW (Cont.)

lenged was in a motion (filed)... to STAY pending, (also) awaiting the lower Court's response...was it wholly pragmatic and was it an objection to preserve the record?

"I think, yes, before the case was dismissed."

PROCEDURAL:

Whether on October 25, 2007, I filed first in Atlanta, Georgia my Motion To Stay Pending the FRAP 10(e)(1), now, ...the next day is October 26, 2007, I personally drove from Georgia to Alabama. I filed to the notice of "that Court" a Motion To Stay Pending in "that Court" until the issue(s) was resolved; I also gave notice and certified evidence of documents to District Court that I had filed for leave in the Eleventh Circuit Court on the proper letterheads to get these Courts attention .... "Hey!" "Do we have a problem?", warning!, warning!, warning!

SUBSTANTIVE:

Merits of the case wholly before God and Justice.

*Whether the District Court Judge erred or abused his discretion when he failed to follow the rules of the Court, i.e., "rules of contract constructions", i.e., "Guidance of the Court's" on course of performance and detrimental reliance, see: (Appendix I); that would favor the offeree, see: (Appendix J), (Lockwood), after untimely revocation by the offeror (Attorney) and employee, Attorney William G. O'rear, who binded and **bound** his employer principle, Beasley, et al.

QUESTION(S) PRESENTED FOR REVIEW (Cont.)

SUBSTANTIVE: Respondents on March 7, 2002 and conceded on May 23, 2002, Exhibits Al, A2, & C1 on course of (completed) performance and detrimental reliance were estoppel on July 1, 2004 lawsuit filed by Van Lockwood v. Beasley, evidence at (Appendix J, infra. at page 84a).

LIST OF PARTIES

Pursuant to Rule 14.1(b), the following list identifies all of the parties before the United States Court of Appeals for the Eleventh Circuit.

The Petitioner, Van Lockwood, Appellant, Third Party Standing.

Respondents: Jere Beasley
J. Gregg Allen
William G. O'rear,
Appellees

Counsel of Respondents record for Appellees, Attorney Robert Huffaker.

The District Court Judge Karon O. Bowdre (Alabama) was the transferor Court. Case Number: 1:04-CV-1405-KOB, the Court with original jurisdiction filed July l, 2004 by Van Lockwood.

The transferee Court receiving this case on Defendants motions to transfer, consolidate, and dismiss is District Court Judge U. W. Clemon (Alabama) same Case Number: 1:04-CV-1405-UWC.

LIST OF PARTIES (Cont)

Petitioner's Parties Witnesses: 1) Lori Rawleigh, Manager, Custodian Of Records Affidavit From The United States Of America Pentagon Federal Credit Union, (No Release On Check / Proof Copy), 2) Dick Lee, U. S. Business Records And Analyst, 3) Debbie Moore, Witness Affidavits, 4) A. G. Lyles, Jr., Witness Affidavits, State Of Alabama As Public Notary, Business Custodian Of Records Submissions, 5) Melody Williams, Supporting Witness.
(*The Defs have not substantiated a lawful affidavit or witness on these records from day one (1) of his suit.)

Attorney Edgar Gentle, second claims administrator lied in his affidavit that Lockwood had signed a release containing 155 words release on back of check # 007517 to which no release language, words, or numbers according to affidavits and witnesses above. "Defendants were not released."

TABLE OF CONTENTS

QUESTION PRESENTED FOR REVIEW i

LIST OF PARTIES iv

TABLE OF CONTENTS vi

APPENDIXES viii

TABLE OF AUTHORITIES x

PETITION FOR A WRIT OF CERTIORARI 1
MOTION TO STAY PENDING THE APPLICATION FOR A WRIT OF CERTIORARI: (Separate filing "also" [filed apart] in the Circuit Court first; then this Court). 8 x 11 1/2 paper)

OPINIONS BELOW 1

JURISDICTION 1

FRAP 10, THE RECORD ON APPEAL 2

INTRODUCTION 3

STATEMENT OF THE CASE 7

REASONS FOR GRANTING THE WRIT 8

TABLE OF CONTENTS (Cont.)

I The Ruling Of The Eleventh Circuit That Van Lockwood Filed A Notice Of Appeal On 10/10/2007 Opposed To 10/01/2007 Will Have A Broad Impact Nationwide On FRAP 10(e)(1) 9

II The Ruling Of The Eleventh Circuit Collides With Binding Federal Regulations 9

A. The Common Rule Prohibits The Infringement Of Circuit Court From Precluding The Due Process Rights Of Appeals 11

B. The FRAP 10(e)(1) Require Reversal Of The Eleventh Court Of Appeals .. 12

C. The Appellant Properly Invoked the Federal Regulations As A Constraint On Jurisdiction Of The Circuit Court To Allow Disputes As To What Really Happened At "That Court" To Be Worked Out By Lockwood Or His Opponent Or That Court's Judge And/Or Clerk 13

CONCLUSION 14

APPENDIXES

APPENDIX A

Opinions, Lockwood v. Beasley, et al, No. 07-14802-F (11th Circuit, Dec. 17, 2007) 1a

APPENDIX B

Inconsistent Opinion(s), Lockwood v. Beasley, et al, Feb. 21, 2007, No. 07-14802-F, (11th Cir.) 3a

APPENDIX C

I filed October 19, 2007, notice motion with cassette tape offered to the lower, District Court. Sonja Jenkins, clerk, identified herself, Court Judge, and extension on Oct. 2, 2007 indicates on Oct. 1, 2007, Motion For Correctness of the record/modified dispute
Attn: Judge Clemon 5a

APPENDIX D

Filed Oct. 25, 2007 Motion To Stay Pending filed at the Eleventh Circuit Court of Appeal before dismissal, i.e., that I foresaw a timely challenge that Court, Clerk, or Judge to which The Appellees did nothing and the District Court has notice the next day. (See Appendix E.) 7a

APPENDIX E

On Oct. 26, 2007, I also filed a dispute within FRAP 10(e)(1) to Judge Clemon, District Court 9a

APPENDIXES (Cont.)

APPENDIX F

Notice of Appeal was filed consolidated with August 31, 2007 Court Order as one (1) filing 11a

APPENDIX G

2006 Remanded Court Order, See: Footnote 1 .....14a

APPENDIX H

District Court's Order, August 31, 2007, also file with Notice of Appeal attached October 1, 2007 and mentioned in the initialed consolidation subject matter 18a

APPENDIX I

October 1, 2007 - Petitioner's Motion For Reconsideration, pages 82 of 82; the first 50 pages are filed in response to the August 31, 2007 Court order on this petition 30a

APPENDIX J

"Substantive" Summary Judgment documents, Lockwood's Exhibits Evidence Exs. Al, A2, B1, & C1 filed July 1, 2004 on detrimental reliance and course of performance, estoppel 84a

APPENDIXES (Cont.)

APPENDIX K

Petitioner's Witness Affidavits 93a

TABLE OF AUTHORITIES

CASES

Anderson v. Liberty Lobby, Inc., 477 US 242 (1986) 11

Celotex Corp. v. Catratt, 477 U.S. 317 (1986) 15

Day, 400 F. 3rd at 1276 (11 th Cir., 1986) 9

Dennis v. Liberty Mutual Ins. Co., 791 F. 2d. 846, 850 (11th Cir., 1986) 11

Donaldson v. Clark, 786 F. 2nd 1570 1573 (11th Cir., 1983) 8

Financial Security Assurance, 450 F. 3d 1264 (11th Cir., 1986) 11

Hadley v. Baxzendale, Wash., D.C. (1855) 15

Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 US 574 (1986) 7, 10

Moore. v. State of Florida, 703 F. 2d., 516, 519 (11th Cir., 2005) 8, 15

TABLE OF AUTHORITIES

CASES (CONT.)

N.W. Enter., Inc. v. City of Houston, 352, F. 3d. 162, 185-86 (5th Cir., 2005) 14

Parklane Hosiery Co. v. Shore, 439, U.S 322 (1979) 15

Thomhill v. Alabama, 310 U. S. 88, 97, 60 S. Ct. 296, 84 L.Ed. (1940) 17

REGULATIONS

Federal Rules Appellate Practice FRAP 10(e)(1) 1, 2, 3, 7, 8, 9, 10, 11, 12, 19, 22

Federal Rules of Civil Procedure, FRCP 15(a) 19

Jurisdiction, 28 U.S.C. Sect. 1254(1) 1

PETITION FOR A WRIT OR CERTIORARI

Petitioner, Van Lockwood, third party standing cases respectfully request this Court to remand this case to District Court, FRAP 10(e)(1) to allow "that Court" Judge to affirm or deny all the motions filed Oct. 1, 2007,Oct. 19, 2007, and Oct. 26, 2007 at District Court.

No harm will be done to the Appellees or allow the Appeal Court at 11th Circuit to go forward and allow me to file my brief within 40 days on the alternative, "a writ of certiorari to review a decision of the District Court", or both Courts, United States Eleventh Circuit of Appeals.

OPINIONS BELOW

The decision(s) of the United States Court of Appeals of the Eleventh Circuit reported at Petitioner's Appendix App., 1a and 1b. Consequently, ...the decision of the United States District Court for the Northern District of Alabama is now disclosed as to the merits of the case, Lockwood and third party standing.

It is a good case when I overcome this hurdle. The Eleventh Circuit Court never reached the merits of the case or the merits of the Notice of Appeal. FRAP 10(e)(1) is pending App. @ Appendix App. F infra at pg 11a..

JURISDICTION

The Court of Appeals final order was entered on February 21, 2008. The Petitioner, Lockwood invoked the jurisdiction of this Court pursuant to 28 U.S.C. sect. 1254(l).

FRAP 10, THE RECORD ON APPEAL

FRAP 10(e)(1), READS IN THE FOLLOWING:

(e) CORRECTION OR MODIFICATION OF THE RECORD

(1) IF ANY DIFFERENCES ARISE ABOUT WHETHER THE RECORD (NOTICE OF APPEAL WITH ORDERS - 8/31/07) TRULY DISCLOSES WHAT OCCURRED IN THE DISTRICT COURT, THE DIFFERENCES MUST BE SUBMITTED TO AND SETTLED BY THAT COURT AND THE RECORD CONFORMED ACCORDINGLY.

INTRODUCTION

This case has presented questions of fundamental fairness and its importance as those that this Court may hold as a proposition to the FRAP 10(e)(1) multiple notices and motions filed. It covers the rights of not only Van Lockwood, but it represent the rights of his opponents.

It is procedural rights of appeal when there is a person in conflict of interest between a clerk and/by reasons (a Judge Clemon) Lockwood as a senior law student at the time the case was filed July 1, 2004. I responded that the case not be transferred to the deemed honorable Judge U.W. Clemon..

The first Judge, The Honorable Karon O. Bowdre transferred the case on defendants motion to consolidate the case. The defs claimed they had a release to which I proved they did not. Documents of fraud upon Defs as well as fraud by the Court, ...it would overturn the case because Judge Clemon himself is self-dealing/self-serving.[1]

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[1]The inquest of self-dealings / self-servings when it concerns a disconcerting remanded Judge or adversary is not unlawful on the Petitioner's First Amendment grounds of free speech and freedom of expression, which is in law/fact (deemed) to be exculpatory evidences of concerns vs. direct evidence of concerns; that was submitted to that Judge U.W. Clemon's lower Court. With respect to an intelligent audience within ethical jurisprudential concerns. See: (Petitioner's tan brief, evid., and stay tuned - coming soon to a USSCJ docket clerk near you). See: legal maxims, infra @ page 20, CLOSING ARGUMENTS and closing statements on page 21 in Petitioner's Brief(s).

INTRODUCTION (Cont.)

I submitted the (missing) documents Oct. 1, 2007. The appeal has been thrown intentionally. The documents included my dean of laws where I attended law school, her father, a federal Judge, and a list of his and potential other board members/attorneys benefiting in Lockwood v. Beasley, thereto Case No. 1:01 -CV-1407-UWC (Evid of docket sheets. Large sums of money were in the hands of his board members, personal business appurtenance to facts and list of evidences were respectfully submitted October 1, 2007 lawfully exposing Judge Clemon's reasons for being one-sided by the Court's own hands were self-dealing and self-serving by reasons....because Lockwood was in a better position to become aware of the list of board members potentially in conflict of interest... since Lockwood's July 1, 2004 "initially" sought a lien against the entire settlement amount, this would raise the level of consciousness in the minds eye of the Court that included family members that are causal connected to the documents signed by Sonja Jenkins, deputy clerk, and would also expose that the judge knew who the first claims administrator was when he attempted to accept an affidavit from the second administrator, Attorney Edgar Gentle on ck# 007517.

Here, the Court has good motives to know Lockwood has a lien opened to the full amount of the suit; may have exposed his earlier dealings to which an accounting may be had is as a show of prejudices; by reasons on remand and in concert with 11th Circuit, 2006, Appeals Court. See Footnote 1, last paragraph decision, which states... Judge Clemon "never gave any consideration for Lockwood's Motion For Summary Judgement." See: Appendix G. The Judge Clemon Court has good grounds for potentially averting a potential lien on the full amount of the lawsuit

INTRODUCTION (Cont.)

because it would expose prior dealings of the Court that had already established records evidence on the docket sheet that are undisputed.

Docket 74 was altered to offset the 82-pages that are missing, because it cross-referenced each as proof component of what was filed October 1st, 19th and 26th in the year 2007 at District Court. If you really think about it; after October 1, 2007 filings, if there were not problems, why would there be so much FUSS!

It simply inputs a dispute to which only "that Court" and Lockwood's evidence can be fairly heard without conjecture as to what Lockwood did or did not mention, or having filed in reliance that it was so stated into the records as a *statement of the material facts* and was timely disputed.

Lockwood's October 1, 2007, timely filed Motion For Reconsideration exposed the lower Court by Lockwood presenting multiple documents that were certified against the Court's financial self-servings and dealings appurtenance.[HERE] the Court did not follow Court rules of contract construction; the October 1, 2007 Motion also is adversed to Defendants-Respondents. The substantive guidance of the Court's rules are essential to the judgment and must be adhered to.

They are mandatory and not permissive in the absence of agreement. They are deemed to be quasi, e.g., the Court's August 31, 2007 final order talks about Lockwood needed considerations, "but" rules of contract construction would apply that....detrimental reliance is a substitute for consideration and after course of performance rules, no revocation by the newly hired Atty. Robert Huffaker can(not) be had against me, the offeree, Lockwood. Because the power of acceptance is in the offeree. Van Lockwood also applies

INTRODUCTION (Cont.)

to third party standing in this instance .....

Consequently, documents from the Alabama Dept.of Corporation exposed that Judge U.W. Clemon is causal connected to another Federal Judge Pearson; his daughter, my formal Dean of Laws are potentially benefiting by posing as guest speakers, when in fact, my Motion For Reconsideration exposed certified documents and a long list of names of the Court's board members is a business benefiting in the very suit.

"Real parties in interest" that exposed large sums of money by the hands of Judge Clemon; documents were submitted to the lower Courts; although circumstantial, it raised a question of self-dealings and self-servings by the lower Court Judge U.W. Clemon and to which Lockwood could not be treated fairly in this occasion, it would be better to quiet the case and dismiss it with prejudice... "But, for the grace of God, there go I." ... . This should not be overlooked.

These documents have come up missing, although they have an October 1, 2007 docketing date, they were filed three (3) times, even in registered mail certificate. The exposing documents were not placed on the docket each time they were filed and refiled is caused for suspicion, and not limited to an accidental filings by time, by date, and by subject matter to which I do hold all evidences that are undisputed and submitted the same to both lower Courts,District and Circuit Court, Eleventh Circuit for the record. This case is due to be reversed for Lockwood and these others .....

STATEMENT OF THE CASE
UNDISPUTED FACTS

That the District Court's deputy docket clerk,Sonja Jenkins, has renumbered docket numbers is good cause for resolution of my prompt disputed October 19, 2007, Motion cassette tape and October 26, 2007 Motion To Stay indicates willful, reckless, or mistakes of her facts. See: Appendix H infra. at Pages 28a and 29a.

She has altered documents, destroyed cassette tapes three (3) in total, and has left messages on my voice-mail as recently as two (2) weeks ago about the Notice Of Appeal to which we clearly have a FRAP 10(e)(1) problem. I "hold" documents central to proving that Sonja Jenkins threw this case, in "that Court."

"But for" these hindrances or errors, the case, Van Lockwood and third party standing would reveal a different outcome against William O'rear, the Respondents employer, Beasley, et al.

The main merited statements of the case are course of performance and detrimental reliance are not only adversed on Defendants-Respondents, but the clerk and the Court to pay notice to Lockwood's prevailing records, filings and evidences that were timely, expressly stated and advanced by Lockwood.

On these dates in the initial 2004 lawsuit, 1st Appeal, Remand (2005), 2nd Appeal, Remand (2006) mandated January 18, 2007. This is the same case ..... October 19th & 25th & 26th, 2007 and represents Lockwood's 3rd appeal in October 1, 2007 in Matsushita Elect. Indus. Co. v. Zenith Radio Corp., 475 US 574 (1986), to which this U.S. Supreme Court gave the lower Distric Court instructions to grant summary judgement when the non-moving party could not and did not bring an answer against the movant party depositives.

REASONS FOR GRANTING THE WRIT

I ask this final leg of Justice to send a message to clerk(s) and the Court. The decision of the Eleventh Circuit, if left unreviewed, will have a very profound impact on "substantive procedural due process" and the infringement upon the obvious original Jurisdictional Court, i.e., "that Court" FRAP 10(e)(1) being the District Court where the problems lie; should have jurisdiction as to determine what the FRAP 10(e)(1) means to person(s) "rights" in civil or criminal cases,where there is a dispute between parties; that Court of original jurisdiction has a binding responsibility to the Appellant, Lockwood or Appellees where there is a genuine issue(s) of disputes and material facts and matters.

The merits of the case, whether the Court's Judge remembered that detrimental reliance is a substitute for consideration; whether the Court understood that course of performance and detrimental reliance are rules that the Court must follow and the Court may not overlook the law and rules that governed all Courts. Furthermore, See, e.g., Donaldson v. Clark, 786 F. 2nd 1570, 1573 (11th Cir. 1983); the Court have previously explained that a nonmoving party Defendant must respond to the Motion (filed July 1, 2004, i.e., Lockwood's Motion For Summary Judgement)....Donaldson v. Clark [HERE] the law is still good law and the Court's rulings further states that the Defendants-Respondents must have gone beyond the pleadings to establish a prima facie case in Moore v. State of Florida, 703 F. 2d. 516, 519 (11th Cir. 1983).

I. THE RULING OF THE ELEVENTH CIRCUIT THAT VAN LOCKWOOD FILED A NOTICE OF APPEAL ON 10/10/2007 OPPOSED TO 10/01/2007 WILL HAVE A BROAD IMPACT NATIONWIDE ON FRAP 10(e)(1).

As you can see, Dear Honorable Justice, the dates 10/01/07 looks a lot like 10/10/07. If I factor in flexibility, we can say the clerk made an error, which leads to the Court Order in the first place dismiss for lack .....

Simply put, this in a binding regulation premised by fair opportunity for Appellant or appellees to have a dispute as to what the FRAP 10(e)(1) allows. It looks to the instrumentality place of injury that has exclusive control, "that Court" or Sonja Jenkins was/is the U.S. District Court of the Northern District of Alabama – If we allow Judges or clerks errors or too much power in the game of gambles,....a party rights to investigate a matter and have a voice "overbreadth" will be cutoff by these rulings on First Amendment grounds of free speech and freedom of expression which are "living U.S. Constitutional rights."

II. THE RULING OF THE ELEVENTH CIRCUIT COLLIDES WITH BINDING FEDERAL REGULATIONS

The 11th Circuit ruling collides with a Federal regulations FRAP 10 (e)(1), because it show a lack of intent and jurisdiction over the lower District Court dispute to which Lockwood pleadings and evidences exist and were filed with both Courts; when there is a challenge, see Day, 400 F 3d at 1276, 11th Cir., holding that a document is undisputed, if its authenticity is not challenged.

II. THE RULING OF THE ELEVENTH CIRCUIT COLLIDES WITH BINDING FEDERAL REGULATIONS (CONT.)

Lockwood is a party to which his argument is precluded by these rulings has a negative affect on the binding regulations, FRAP 10(e)(1) A/K/A notice of disputes, Motion to Stay. [Hear] this, Dear Justice, before the case was dismissed.....

The ruling of the District Court collides with binding rules of contract construction, detrimental reliance, course of performance to which we know the power of acceptance is in the offeree. After acceptance, Lockwood's exhibit in Appendix J, a/k/a Exhibits A1, A2, B1 and C1, in the lower Courts where Attorney William G. O'rear initials the May 29, 2002 acceptance letter to which I signed and stated, "I accept" is promissory estoppel and summary judgment all day and all night and the Respondents know it.

The Respondent, Beasley, is actually smarter than the Court and its staff. How does Lockwood know this? Because they never filed an answer when Lockwood **moved** upon Defendants-Respondents in **Matsushita Elec. Indus. Co. v. Zenith Radio, 475 U.S. 574 (1986), and Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)** when they were met by Lockwood in Moore v. State of Florida.

The Defendants-Respondents had 20 - days to challenge the depositives of the Plaintiff - Petitioner. They could not, even on this petition fighting for 4-5 years now. They have not disputed my rights to summary judgment and the amended complaint.

A. THE COMMON RULE PROHIBITS THE INFRINGEMENT OF CIRCUIT COURT FROM PRECLUDING THE DUE PROCESS RIGHTS OF APPEALS.

Like defaults, some cases must be decided at District Court. The rules procedurally are based on respect to Jurisdiction and is the substantive due process rights to Appeals. See: **Financial Security Assurances** (11th Circuit/ purports..... We consider whether the Plaintiff (Lockwood) would have to offer the documents to prove his case, Id. @ 1264.

A document, e.g., Notice of Appeal, receipts, evidences on cassette tapes, cancelled receipts, Motion For Reconsideration, etc. See: **Dennis v. Liberty Mutual Ins. Co., 791 F. 2d. 846, 850, (11th Cir., 1986)**. This case holds that a party should have a right to make all arguments and submit all the documents they would have submitted with sufficient notice. Lockwood's documents were undisputed by any party on both his Motion For Reconsideration and his Appeal Notice.

Lockwood made a good timely move upon both Courts; to which Lockwood has disputed that errors reporting by District Court and Eleventh Circuit, managing clerk, Brenda McConell and Marcus Simmons induced reciprocal concerns... Keeping in mind that October 25, 2007 that the Motion To Stay pending the Appellate's review was filed reciprocal to the affects of FRAP 10(e)(1)as notice of disputes, before the case was ever dismissed for lack of jurisdiction and such an effort would show within the FRAP 10(e)(1).

It began in District Court in Birmingham, Alabama. Such Court negatively affecting Circuit Court's judgment; to which reversal is due in the interest of justice and third party standing still awaits Big Justice in the interest of future Plaintiff's rights

A. THE COMMON RULE PROHIBITS THE INFRINGEMENT OF CIRCUIT COURT FROM PRECLUDING THE DUE PROCESS RIGHTS OF APPEALS. (CONT.)

would be lost by abuse of due process; to which this binding regulation of law is correct and should have allowed Van Lockwood remedy within its common rule of law.

The FRAP 10(e)(1) has good merits that should condemn judgement that is predicated upon conjectures or the infringements relegated or excluded when notice was given to both Courts that there is a conflict, or misrepresentation by alterations or detachments as to what actually happened by the managing clerk(s) that is relevant to the opportunity the law affords as cure to the circumstances, which are the preserved record objection(s) that were advanced timely and a front of the Circuit Court order(s).

B. THE FRAP 10(e)(1) REQUIRE REVERSAL OF THE ELEVENTH COURT OF APPEALS

Simply put, it states the 11th Cir., cannot override the disputes at the lower courts when it was timely brought to their attention by Lockwood. The rule of law expressly states that correctness and modification of the record must return to that court, or in this instance, certiorari as to the interpretation unless corrected may confuse other circuit courts and lower Courts Circuit judges. See: infra. @ page 2, FRAP 10(e)(1).

C. THE APPELLANT PROPERLY INVOKED THE FEDERAL REGULATIONS AS A CONSTRAINT ON JURISDICTION OF THE CIRCUIT COURT TO ALLOW DISPUTES AS TO WHAT REALLY HAPPENED AT "THAT COURT" TO BE WORKED OUT BY LOCKWOOD, OR HIS OPPONENT, OR THAT COURT'S JUDGE AND/OR CLERK.

The Appellant Lockwood properly made every effort to get the Judge(s) attention by filing "early" and timely within computation of the law. I sent and filed three cassette tapes to District Court informing them in fair notice that Sonja Jenkins was also a problem last year in the 2006 Appeals that favored Van Lockwood, and was remanded January 18, 2007.

Emphasis added as proof that Sonja Jenkins mailed a copy of the 8/31/07 court order with my Notice of Appeal. See: Appendix H infra. (evid.) at pages 28a and 29a leaves no doubt. See Sonja Jenkin's testimony...x see x and verification signature that rebuts 11th Circuit Judges Birch, Barkett, and Dubina; to an intelligent audience Jenkins was in control of the instrumentality causing injury or lack of jurisdiction by affecting subject matter when she withheld or detached documents that were mentioned and consolidated into one filing by Van Lockwood. See: Moore's Aff. Appendix K infra at page 93a October 19, 2007.

CONCLUSION

Dear Honorable Justices:

Please let this case be remanded and heard and/or stayed at District Court. I will win this case! N.W. Enter., Inc. v. City of Houston, (5' Cir.), would have allowed the FRAP 10(e)(1) disputes. The Eleventh Circuit Court have precluded disputes between the Defendants, the clerk, or Judge Clemon, when in fact, **Lockwood relied to his detriment on a trustworthy person in control to have transmitted documents in the order he filed them.**

Imperial interest, "yes"! It stems from the District Court, July 1, 2004 lawsuit. The merits of this case represents the nation as a whole. What are Plaintiffs rights in a non-class action lawsuit to make inquiry at the time of contracting to request made under the advisement, and to the advisement by the offeree when a quasi contract is formed and forbearance accepted by conduct?, i.e., when injury is exacted upon him or her, i.e., third party standing by Lockwood also indicates the rights of others to have some autonomy and control over what happened between Attorneys/Clients in non-class action suits. It educates the general and national public.

"This case stands for a national proposition of plaintiff's rights."

> **"When you are no longer able to carry your money, your money should carry you, & one has rights to be informed every step of the way; not limited to third party standing."**

CONCLUSION (CONT.)

Prior to and since 1855, rules of foreseeability and notice under Hadley v. Baxzendale, APPENDIX J will show Lockwood in Exs. Al, A2, & C1 meets the notice requirements in certified mail and the offeror, William G. O'rear accepted in Lockwood's Ex. C1 by his initials what is deemed to be a forbearance, May 29,2002 and modification by his own hands and conduct; two (2) years later its too late for Defendants-Respondents to hire an attorney to bring revocation (course of performance) (detrimental reliance).

And yet, Defs never filed an answer, and [here]in the August 31, 2007 lower Court order, the Judge admits Lockwood had a right to suit against Defendants. Therefore, Defendants-Respondents motions to transfer and consolidate the case was of no moments because Lockwood's lawsuit against Beasley, et al was independent of Tolbert v. Monsanto; was not essential to the judgment of Judge Clemon.

See: U.S. Supreme Court in **Parklane Hosiery Co. v. Shore, 439, U.S. 322 (1979)**, holding Plaintiffs rights to sue in the original Court when the judgments are not essential to the case. - The first Judge, Honorable Karen 0.Bowdre should have never transferred the case because the burden to overcome summary judgement was on Defendants-Respondents in Moore v. State of Florida and Celotex case, (supra). Lockwood is premised by a lien on the whole would-be settlement; maintained when defendants failed to advise or inform, and negotiate. Every step of the way was not limited to 3rd party standing; Lockwood advanced the Living Constitution on other issues in the case (1st Amendment vs policy) that induce injury, having a chilling effect.

CONCLUSION (CONT.)

At District Court, Defendants-Respondents had 20-days to respond and file an answer; to which four (4) years later, they cannot defend against summary judgment and relied on a check number 007517 to which Eleventh Circuit told them on appeal that Lockwood did not need to prove(that phony, faker's check), which did not have a release on it.

See: Appendix I infra @ page 30a, **Id. at page 45a Ala. law reversing summary judgement Salter v. A. Fraser Patillo Jr. Inc. 519, 50. 2d 930 (Ala 1988). The trial Judge erred in granting summary judgement to Defendants.** Disclosing Alabama law on release, which required new consideration and must name the party personally and identify them to the release, to which no release named Defendants and no consideration was ever given.

This is not a class action suit, but a multiple litigants suit; to which the lower Court has limited control, unlike a class action suit over the contracting parties as to how attorney(s)/client(s) makes contracts and/or forbearances, i.e., actually Lockwood v. William G. O'rear, Attorney.

Attorney William O'rear, who is the employee that bounded his **Employer**, "B-A" a/k/a Beasley-Allen have established reciprocal covenants of forbearance, whereby Defendants knew or should have known I would have relied to my detriment(s) on the March 7, 2002 agreement, lower Court's exhibits are known as Exs. A1, A2, B1, & C1. See under Appendix J executed by both William G. O'rear and Van Lockwood, May 23, 2002.

CONCLUSION (CONT.)

The claim was amended for $1.5 Billion Dollars, third party standing[1] pursuant to the FRCP 15(a) and Thomhill v. Alabama, 310 U.S. 88, 97, 60 S. Ct. 296, 84 L.Ed. 460, overbreadth on "other issues in this case". Also, Lockwood sought a constructive trust on money and growth, July 1, 2004; on July 1, 2004, I advanced promissory estoppel principles at the time the lawsuit was filed July 1, 2004.

The Defendants - Respondents are not a "Public Corporation" at the time the lawsuit was filed. See: October 1, 2007, Motion, Appendix I **for the record**.

[1]The Petitioner invoked the overbreadth doctrine on First Amendment grounds, i.e., having a policy that is too controlling; a chilling affect on the initial $500.00 advance check, e.g. check #007517, the misrepresentation of policies which stated "You *must cash* or deposit your (advanced) check" to receive any other potential money (which does not preclude Lockwood or remove a lien on the whole would-be opportunity to settle or negotiate a bound offeror). Such policy at the District Court and administration would induce trust over tricks... i.e., leading and controlling orders/instructions that plaintiffs are thinking they must follow; all plaintiffs with or without causation to injury were randomly and freely issued checks deemed to be "gifts." This lacks on "consideration without detriment." Lockwood's check was endorsed by A.H. Aborrishda, which had no release language on front or back of check. See Alabama Law, Appendix I and Appendix J where Defs of Forebearance could not be released by "novation" until an accord satisfaction was had by the reciprocal covenants on course performance and detrimental reliance and agency and principle to which respondent employee, William G. O'rear has bounded them, in apparent and inherent authority has bound these parties on forebearance, to which no revocation is possible and/or after revival and acceptance was ended 5/29/02.

CONCLUSION (CONT.)

The State of Alabama records submission revealed that Defs are actually an LLC Company. Defendants lied to the District Court and to the 11th Circuit Court on appeal(s), in this present case and on the appeal in 2005, 2006, and this 2007 appeal is in "hindrance" of going back to the 11th Circuit. This 3rd appeal in 2007 is partial and due relief .

In all instances, the Defs posed a "corporation." The October 1, 2007 documents from the Alabama Department of Corporation gave Defs' correct address and post office box where mail was served on them; this would expose their lie and put in question their motives under Lockwood's evidence submission. Simply put... Defendants-Respondents were seeking to again mislead the Court and the Plaintiff, a wish for complacency in the event they would lose their case.

Defendants would claim corporate protection or limitation on personal assets or properties, hints... where there is no corporate veil. This was also done when they advanced their "interested persons and corporate disclosures" certified statements. The intent is to wantonly and falsely mislead the bearing facts, to deceive the Court and the Plaintiff, as they also attempted to do @ doc. 59.

Defendants submitted another false affidavit signed by a unknown notary with the first name as initials but the last name Beasley; no where in the State of Alabama Probate Department does such a "notary exist". The lower Court relied on doc. 59, a phony check not on bank letterhead. The Defendants assumed the Judge or Lockwood was to be dumfounded or that Lockwood would remain a question presented for review.

CONCLUSION (CONT.)

The Eleventh Circuit **warned** the Clemon's Court, lower Court against the use of doc. 59, check # 007517, but the District Court's "abuse of process" by ignoring the 11th Circuit, 2006 mandate is grounds for reversal of the Defendants-Respondents because I believe the Court has its own self-serving and self-dealing motives to quiet the case (breach of forbearance).

It is no accident that 82 -pages of certified documents, discoveries, and witnesses affidavits filed three (3) times are intercepted by perhaps a contingent of individual(s) or clerk(s) "errors." All of such would fall within the FRAP 10(e)(1) for the record; reflect the timely early objection by Lockwood.

Judge U.W. Clemon at District Court gave the incorrect claim amount in his August 31, 2007 Court order which is another Court error(s) on the amount Lockwood sought. The claim was amended for $1.5 Billion Dollars, breach of forbearance third party standing[1] pursuant to the FRCP 15(a) rules. The Eleventh Circuit Court Judges ruled December 20, 2006 rendering it into law on January 18, 2007.

"Nothing would have precluded Defendants from seeking a lesser amount or settling the claim on any attempt or open amounts since July 1, 2004 suit." Lockwood was open to resolving the dispute nearing five (5) years ago, and it has been nearing seven (7) years since relief from injury was sought on March 7,2002 by initials executed May 23, 2002. See: App. J.

The Defendants-Respondents disobeyed the lower Court's order to respond within 30-days to amend or challenge Lockwood's amended complaint, i.e., the Defs did not follow this order issued by, and under, the Honorable Judge Karon O. Bowdre comes in as an

CONCLUSION (CONT.)

admission against them, and a failure to follow a lawful Court order pursuant to local FRCP Rule 41, which is deemed to be an adjucation on the merits at District Court. The Eleventh Circuit issued its final mandate January 18, 2007, and to which the Appellees did not object or challenge or file a Motion For Reconsideration for the record.

CLOSING ARGUMENTS

Legal Maxims

Equity will not aid him who can aid himself; Regula pro lege, si deficit lex. If the law is inadequate, the maxim serves in its place. [My legal maxim] - "Lower Courts' objections, warnings, or notices gains the respect on course of performances and preserves the records for a higher order of reviews that attends to detrimental reliance, without the aid of excuse that brings injuries to other imperial interests." - Van Lockwood's legal maxim.

CLOSING STATEMENTS
Reasons That Compel My Conclusion

The Petitioner requests that this Honorable U.S. Supreme Court of Justices will find that my objective objections in every argument are worthy of trust and affection. Consequently, before the suit was filed, Defendants/Respondents had a duty to keep me informed every step of the way...opposed to abandonment.....

In the words of U.S. Supreme Court Justice(s) Antonin Scalia and Bryan A. Garner[1].... "Trust is lost by dissembling or conveying false information not just intentionally but even carelessly; by mischaracterizing precedent to suit your case; by making arguments that could appeal only to the stupid or uninformed; by ignoring rather than confronting whatever weighs against your case." "Trust is won by fairly presenting the facts of the case and honestly characteizing the issues; by owning up to those points that cut against you and addressing them forthrightly; and by showing respect for the intelligence of your audience."

Dear Honorable Justices: I am relying on the Court to do the right thing on the active liberty of Justice. My adversary case was based on res judica and allegations that they had been sued twice by Lockwood, and that Van Lockwood had signed a release with 155 words to include numbers, lines on the back of the check # 007517. After their legal efforts or theory failed their Counsel, Robert A. Huffaker, who was largely hired by the defendant *respondeate superior* Respondents who were only seeking

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[1] **MAKING YOUR CASE**

revocation that was reciprocal between Van Lockwood and William G. O'rear, their former employee that was terminated right after the lawsuit was filed on July 1, 2004. Attorney William G. O'rear was served at both B-A, Beasley-Allen Law Firm, and subsequently served as an employee in the Probate Court of Montgomery, Alabama, i.e., his new employer. To this Honorable Court of Justice, I appeal not just to the rules of law, but to Justice and common sense.

On the transition, the FRAP 10(e)(1) the regulations were written just for me, Van Lockwood and the imperial others... It falls within the meaning of "Active Liberty" of Justice. U.S. Supreme Court Justice Stephen Breyer[2] and the other Justices I hope will all concur that the FRAP 10(e)(1) is lucid and has been concisely expressed by Lockwood; that Circuit Court Judges throughout this nation should yield to its importance, especially, to pro se and not just limited to any party Appellee or Appellants-Plaintiffs. The FRAP 10(e)(1) is in the best interest of Justice to all. It is due process, constitutional within active liberty and it bears down on the economics of valuable, lawful services, time, efforts, monies and expenses, and is a reasonable expectation for Justice; when disputes and facts that are contingent to a clerk, a Judge, in a conflict of interest, a payoff, a human error, a misrepresentation, to an arbitrary or disconcerting person that is overt or covert, a motion to hold a case in abeyance or to stay a case before the case is heard, or because there is a conflict on what truly happened, i.e., when advanced in timely fair notices; if not within common

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[2] ACTIVE LIBERTY.

sense of "making your case," it should persuade the active liberty of economics.... May I explain? **Certiorari should be Granted**.... because this case, if not corrected, sends the wrong message to sloppy clerks, self-serving Judges, complacent defendants or clients, and attorneys that are self-dealing. Within my mind's eye I see both an overt and a covert message... and that message is: You can throw a case in the District Court if you are a Judge or a clerk or a powerful attorney with money that floats within our legal system to a clerk, a Judge, a lawyer, a janitor, an inside person, a "blocker," by withholding information and documents, detaching documents, destroying evidence, moving documents around and changing document numbers to offset the subject matter or to confuse the Court. This must be stopped by the Court above all Courts, the U.S. Supreme Court, forthwith.

Now, let me not be foolish in thinking that these things will never happen - the pragmatic question becomes at the high level of the U.S. Supreme Court. How do you prove all this? My answer is, you don't - the law and documents with witnesses will support the notion of an unjust misfit, after Making Your Case, you do not accuse anyone or anything, you stay focused on the adversary. On July 1, 2004, March 7, 2002, and May 23, 2002 this Court will find Lockwood/O'rear as reciprocals....

What do I want these Honorable U.S. Supreme Court Justices to do ? I want the Court to reverse summary judgement, and grant the case on consideration of detrimental reliance, modification, and course of performance, for the amount of the amended complaint, third party standing. I want a

clear message sent to lawyers that have forgotten the meaning of the words in the Oath of Office; they are Officers of the Court, and servants of their clients to prevent future torts and abandonments and breach of forbearance. Since this Court is above all Courts, it has the power to align the oversights of the Circuit Court, and correct an injustice.

Lockwood v. Beasley should become a landmark case, because it shows the public that they do not need to surrender their rights at the time of contracting, and that they can rely on the Courts to protect them should their lawyers fail to do so. Lockwood's case represents a change for the general public, and perhaps for future class actions. ***Throughout this nation, a handful of lawyers in a case such as this can take billions of dollars from the settlement intended to "repay" injured parties; these injured parties, who have been irreversibly poisoned, have ended up with little more than a day's pay.*** I saw people in Anniston, Alabama, Your Honors, some of them nearly blind, sick, angry, abandoned by their attorneys. They did not know their rights. *This was not a class action suit*, I remind this Court; *this was an individual, multiple litigants suit.* The Defendants-Respondents settled this suit without the Plaintiff's consent or vote or **KNOWLEDGE** for $300 Million Dollars, against a company that makes *One Billion Dollars A Day*. The Defendants, B-A, et al, were only interested in getting their money off the top and "kicking to the curb" every plaintiff that depended on them for justice. After the settlement, they did not return telephone calls and were not interested in negotiations to get an accord and satisfaction; the Plaintiffs were **abandoned**.

CLOSING STATEMENTS (CONT.)

Quite frankly, Your Honors, I do not wish to go back to the U.S. District Court or the Eleventh Circuit Court of Appeals, but if you send me back, I will go, and if I need to, I will fight my way back to you. I will admit I am a bit tired, but I cannot quit, because this case is not all about Van Lockwood. Let this U.S. Supreme Court find that Jere Beasley, J. Gregg Allen, and William G. O'rear, Defendants-Respondents are not lawfully discharged. Lockwood seeks a constructive trust on all monies, and equitable lien on all properties, growth, and/or investments traceable in its initial structure, distributions and accounting; to which I will execute with interest from the accruements. With your right and honorable judgement, Your Honors, injustice for the Petitioner/3rd party standing can be overturned - *a victory for us all.*

Sincerely,

Dr. Van Lockwood

Dr. Van Lockwood
Petitioner

APPENDIX

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 17 2007

THOMAS K. KAHN
CLERK

No. 07-14802-F

VAN LOCKWOOD,

Plaintiff-Appellant,

versus

JERE L. BEASLEY,
J. GREGG ALLEN,
WILLIAM G. O'REAR, JR.,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Alabama

---

Before BIRCH DUBINA, and BARKETT, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, sua sponte, for lack ofjurisdiction. Van Lockwood's notice of appeal, filed on October 10, 2007, is untimely as to both the March 29, 2006, and the August 31, 2007, district court orders. Fed.R, App.P. 4(a)(1)(A), McDougald v. Jenson, 786 F.2d1465, 1474 (11 th Cir. 1986). Lockwood's motion to stay appellate proceedings is DENIED as moot.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 07-14802-F

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

FEB. 21 2008

THOMAS K. KAHN
CLERK

VAN LOCKWOOD,

Plaintiff-Appellant,

versus

JERE L. BEASLEY,
J. GREG ALLEN,
WILLIAM G. O'REAR, JR.,

Defendant -Appellees.

Appeal from the United States District Court for the Northern District of Alabama

Before
BIRCH DUBINA AND BARKETT, Circuit Judges.
BY THE COURT:

Van Lockwood's January 4, 2008, motion for reconsideration of our December 17, 2007, order dismissing this appeal for lack of jurisdiction, is DENIED. The notice of appeal expressly states Lockwood's intention to appeal the March 29, 2006, district court order. An express designation of the order appealed from implies the lack of intent to appeal unmentioned orders. Osterneck v. E.T. Barwick Indus., Inc., 825 F.2d 1521, 1529 (11th Cir.1997). Because the notice of appeal is untimely as to the March 29, 2006 order, this Court lacks jurisdiction over the appeal. Fed.R.App.P. 4(a)(1)(A)-, Rinaldo v. Corbett 256 F.3d 1276, 1278 (11 th Cir. 2001).

Because this Court does not have jurisdiction over Lockwood's appeal, his motion for an extension of time to file his initial brief is DENIED as moot.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DIST. OF ALABAMA

07 OCT 19 PM 5:07
U.S. DISTRICT COURT, N.D. OF ALABAMA

VAN LOCKWOOD,	*	
	*	
Plaintiff,	*	**CASE NUMBER:**
	*	**1:04-CV-1405-UWC**
V.	*	
	*	
JERE BEASLEY,	*	
GREGG ALLEN,	*	
WILLIAM O'REAR, JR.	*	
	*	
Defendants.	*	
	*	

Judge Clemon

See: Attachment Motion For Reconsideration Filed October 1, 2007, 82-pages with multiple motions therein filed into the District Court with one (1) Radio Shack cassette tape recording 4 1/2 minutes Total count of pgs. 112 this filings

NOTICE

MOTION NOTICE TO SUPPLEMENT THE RECORDS (DEEMED FILED) OCT 1 2007 FILINGS AS (EVIDENCED) BY THIS MOTION EX. A-129 AND EX. A-130 TAPE RECORDINGS - JUDICIAL NOTICE TO THE COURT

Dear Delores, In Care Of Judge U.W. Clemon:

Please see my Motion of Reconsideration docketing stamped as evidenced on or by October 1, 2007 in the Northern District of Alabama. As you can see, it is causal connected to my summary closing arguments which began on pages 51 @ doc. 74. If you look at doc. 74, there are a total of 18-pages entered October 4, 2007. It is the closing argument, thereto the October 1, 2007 Judgment as a Matter of Law (JMOL) and Summary Judgement, infra., at[1]

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[1]THE ONLY PURPOSE FOR GIVING THIS NOTICE IS TO ALLOW THE COURTS FURTHER REASONABLE OPPORTUNITY TO DENY OR GRANT THE MOTIONS ALSO CONTAINED THEREIN THE 61 - PAGES, SO THAT WHEN THIS MOTION REACHES THE APPEALS PROCESS,THE "ANNISTON FAIRNESS MEETING" TRANSCRIPT NOTICE FILED-MONDAY, OCTOBER 13, 2007 THERETO THE OCTOBER 1, 2007 INITIAL FILING FOR RECONSIDERATION ALLOWS THE COURT A REASONABLE TIME TO FIND ITS ERRORS BEFORE THE CIRCUIT COURT REVIEWS.

NOTICE TO STAY PENDING
IN THE UNITED STATES
COURT OF APPEALS

APPENDIX D

NOTICE TO STAY PENDING IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

My Copy

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA (EASTERN)

07-1 4802-F

U.S. COURT OF APPEALS
RECEIVED
CLERK
OCT 25 2007

ATLANTA, GA.

Van Lockwood,
Plaintiff-Appellant,

V. **USDC NO. 04-CV-01 405-K OB**
TRANSFERRED: APRIL 29, 2006
TO USDC NO. 04-1405-CV-1-UWC

Jere Beasley,
Gregg Allen,
William O'rear, Jr.,
Defs-Appellees.

On Appeal from the United States Court for the Northern District of Alabama

**MOTION TO STAY
PENDING THE APPEALS
AT THE ELEVENTH CIRCUIT
THERETO THE DISTRICT COURT
N.D. OF ALABAMA,
UNTIL DISTRICT COURT (DOCKET)
REFLECTS THAT THE JUDGE HAS
RENDERED A DECISION
ON THE PLAINTIFF'S MOTION(S)/ FOR
RECONSIDERATION (DEEMED FILED)
OCTOBER 1. 2007**

Dr. Van Lockwood, J.D.
Doctor of Laws/Jurisprudence
Post Office Box 40004, Jacksonville, FL 32203-0004

APPENDIX E

NOTICE TO STAY PENDING THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

FILED
2007 OCT 26 PM 3:48
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

(EASTERN)

This is my exact copy filed in the Dist. Crt. **07-14802-F**

Van Lockwood
Plaintiff-Appellant,

V. USDC NO. 04-CV-01405-KOB
TRANSFERRED: APRIL 29,2006
TO USDC NO. 04-1405-CV-1-UWC [ ]

REMANDED Dec 20, 2006
Appeal filed Oct 1, 2007

Jere Beasley,
Gregg Allen,
William 0'rear, Jr.,
Defs-Appellees

On Appeal from the United States Court for the Northern District of Alabama

MOTION TO STAY PENDING THE APPEALS AT THE ELEVENTH CIRCUIT THERETO THE DISTRICT COURT N.D. OF ALABAMA UNTIL THE DISTRICT COURT (DOCKET) REFLECTS THE JUDGE HAS RENDERED A DECISION ON THE PLAINTIFF'S MOTION(S) FOR RECONSIDERATION (DEEMED FILED) OCTOBER 1, 2007

Dr. Van Lockwood, J.D.,
Doctor of Laws/Jurisprudence
Post Office Box 40004
Jacksonville, FL 32203-0004

separate and evidentiary

APPENDIX F

FILED
07 OCT - 1 PM 4:31
U.S. DISTRICT COURT
N.D. OF ALABAMA

NOTICE OF APPEAL TO THE ELEVENTH CIRCUIT COURT OF APPEALS FROM A FINAL ORDER OF A DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

(EASTERN)

VAN LOCKWOOD. Plaintiff	*	**Civil File Number: 1:04-cv-1405 KOB Filed - July 1, 2004**
V.	*	
BEASLEY, O'REAR, JR., ET AL, Defendants	*	**Transferred: March 29, 2006 To: 1:04-CV-1405 UWC**

Notice is hereby given that [Judge Karen 0. Bowdre; Chief Judge U.W. Clemon] (Van Lockwood, Plaintiff), (Beasley/(Attorney) William G. O'rear, Jr., et al, Defendants) in the above case, hereby appeal to the U.S.Court of Appeals for The Eleventh Circuit (from the final judgement) (from an order dismissing and transferring case) at (Doc. #45) entered in this action on the 29th day of March, 2006.

The case was remanded on December 20, 2006 by The Eleventh Circuit Court of Appeal, Atlanta, Georgia. The Plaintiff supplemented the record with new evidence that was clear and convincing evidence from the United States Pentagon Federal Credit Union (USPFCU), which gave proof that the Appellees/Defendants on first and time rule, i.e., USPFCU Business Records with firsthand control over Check No.007517 did not have any release language on it, also defs were unnamed under Alabama Rules, a release requires new consideration when the offeree reserves all rights at the time of contracting to leave the offer open on the table by way of inquiry and (request). See Plaintiff's exhibits A-1, A-2, A3, and C-1.

The offeree claimed revival of modification by the only method the solicitation requested i.e., intitials Plaintiff also claimed promissory estoppel on detrimental reliance and course of performance, whereby the offeree fully performed unilaterally and participated in accordance with Ex. A2 requirements, which does not preclude Ex. A1, A2 & C1 in quasi accord thereto the March 7, 2002 executory accord.

The courts finding that the offeror superior Jere Beasley, Et Al impliedly needed to hold William G. O'rear's hand. The Plaintiff claims the offeror had inherent an apparent authority as exclusive agency to which the offeror may, not revoke its offer, after the offeree accepts. The Courts failed to apply the rules of

contract construction. The court has erred even on June 16, 2004, when the court cutoff opportunity for the defendants to come forth to clear the matter.

This was a rush of judgment outside of the pleadings.

Vans Lockwood,

VAN LOCKWOOD,
Pro se in Laws/Facts
P. 0. Box 40004
Jacksonville, Florida 32203-0004
904-519-2959

*Fees prepaid $455 at Docket Clerk District Court on the 1 day of Oct.

CERTIFICATE OF SERVICE

A true copy was place in the United States Mail System on this 1 day of Oct., 2007.

Attorney Robert Huffaker
P. 0. Box -170
Montgomery, Alabama 36101-0270
Attorney for Defendants/Attorneys

APPENDIX G

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 06-12698
Non-Argument Calendar

D. C. Docket No. 04-01405-CV-UWC-E

FILED U.S. COURT OF APPEALS,
ELEVENTH CIRCUIT, December 20, 2006
THOMAS K. KAHN CLERK

VAN LOCKWOOD,

Plaintiff-Appellant,

versus

JERE L. BEASLEY,
J. GREGG ALLEN,,
WILLIAM G. O'REAR, JR.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Alabama

(December 20, 2006)

Before BLACK, MARCUS and FAY, Circuit Judges.

PER CURIAM:
...abuse its discretion by denying Lockwood's motions for default due to the defendants' failure to file their motion within 20 days after they were served.

To the extent that Lockwood argues that default was appropriate because the defendants failed to answer, Fed.R.Civ.P. 12(b) allows a number of defenses, including failure to state a claim upon which relief can be granted, to be made by motion. Fed.R.Civ.P. 12(b). Such a motion alters the time in which an answer is due until after the district court denies the motion or postpones its disposition. See Fed.R.Civ.P. 12(a)(4)(A). Because the defendants filed a motion to dismiss asserting, inter alia, failure to state a claim upon which relief can be granted, the defendants were not required to file an answer until the district court disposed of their motion. Id. Thus, the district court did not abuse its discretion by denying Lockwood's motions for default due to the defendants' failure to file an answer.

III. Dismissal

We review de novo the district court's dismissal of a compliant for failure to state a claim upon which relief can be granted, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff. Fin. Sec. Assurance, Inc. v. Stephens, Inc., 450 F.3d 1257, 1262 (11th Cir. 2006).However, we do not reach the merits of the district court's decision regarding the release because we hold that the district court failed to follow the proper procedure in ruling on the defendants' motion to dismiss.

As a general rule, "[w]henever a judge considers matters outside the pleadings in a 12(b)(6) motion, that motion is thereby converted into a Rule 56 Summary Judgment motion". Trustmark Ins. Co. ESLU, Inc., 299 F.3d 1265,1267 (11th Cir. 2002); Fed.R.Civ.P. 12(b); Day v. Taylor, 400 F.3d 1272, 1275-76(11th Cir. 2005). "When that conversion occurs, the

district court must comply with the requirements of Rule 56. The district court is required to notify the parties that the motion has been converted, and give the parties 10 days in which to supplement the record." Trustmark, 299 F.3d at 1267 (citations omitted). "[W]e are compelled by our own precedents to note sua sponte that the court below failed to adhere to the dictates of Fed.R.Civ.P. 56(c). . . ." Griffith v. Wainwright, 772F.2d 822, 824 (11 th Cir. 1985). We have "consistently enforced the strict notice requirements of Rules 12(b) and 56, creating a bright-line rule: If a district court fails to comply with the ten-day notice requirement, the case will be reversed and remanded so that the district court may provide the non-moving party with adequate notice." Jones v. Auto. Ins. Co. of Hartford, Conn., 917 F.2d 1528, 1532(11th Cir. 1990) (emphasis in original).

In dismissing the case, the district court considered the copy of the $500 advance payment check and Gentle's affidavit explaining the release language, which were attached to the defendants' motion to dismiss. By doing so, the defendants' motion was converted into a motion for summary judgment under Rule12(b). See Jones, 917 F.2d at 1532. The district court, however, failed to give Lockwood notice of the conversion and an opportunity to supplement the record.

We have recognized an exception to the conversion and notice rules where "a plaintiff refers to a document in its complaint, the document is central to its claim, its contents are not in dispute, and the defendant attaches the document to its motion to dismiss." Fin. Sec. Assurance, 450 F.3d at 1264. As to whether a document is central to the plaintiff s case, in

Financial Security Assurance, we considered whether the plaintiff would have to offer the document to prove his case. Id. A document is undisputed if its authenticity is not challenged. Day, 400F.3d at 1276. In addition, conversion without notice is harmless if the record shows that the parties understood that conversion would take place and made all arguments and submitted all of the documents they would have submitted with sufficient notice. Denis v. Liberty Mut. Ins. Co., 791 F.2d 846, 850 (11th Cir.1986). Neither situation is present in this case. The check and its release language do not need to be offered by Lockwood in order to prove his case; they are relevant to the defendants' affirmative defense. Both in his motion for reconsideration before the district court and in his briefs on appeal, Lockwood has disputed the existence of the release language on the check, including making assertions that the copy presented by the defendants was altered or a forgery. In addition, the record does not show that Lockwood understood that conversion would take place.

In light of the foregoing, we affirm the district court's denial of Lockwood's motions for a default judgment, but vacate the district court's order of dismissal and remand for further proceedings consistent with this opinion.[1]

AFFIRMED IN PART AND VACATED AND REMANDED IN PART.

---

[1]Because the district court never addressed the merits of any of Lockwood's motions for summary judgment, we decline to consider the propriety of summary judgment in Lockwood's favor in the first instance.

APPENDIX H

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA, EASTERN DIVISION

VAN LOCKWOOD,

Plaintiff,

vs.

JERE L. BEASLEY; J. GREGG ALLEN; WILLIAM G. O'REAR, JR., *et al* LAW FIRMS,

Defendants.

Civil Action Number
1:04-cv-1405-UWC

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

This case arises out of the Plaintiff's dissatisfaction with his counsel's receipt of forty percent (40%) of a $300 million settlement fund as attorney's fees in Tolbert v. Monsanto Company ("Tolbert") (N.D. Ala. Civil Action No:.2:0 1 -cv-1407-UWC). Van Lockwood, one of the more than 18,000 individual Tolbert plaintiffs, commenced the instant action against three of the lawyers representing the Tolbert plaintiffs. In this action, Plaintiff seeks twenty-eight percent (28%) of the 120 million ($ 33.6 million) from these Defendants.

Cross-motions for summary judgment are pending before the Court, after the Eleventh Circuit's reversal of the Court's earlier dismissal of the action based on the affirmative defense of release.[1] Based on the pleadings, affidavits, and other submissions in the record, together with judicial notice of the Tolbert file,the Court makes the following Undisputed Findings of Fact and Conclusions of Law.

A. UNDISPUTED FINDINGS OF FACTS

1. On March 7, 2002, Plaintiff signed a "PCB Fee Agreement," with the lawfirms of Beasley-Allen ("B-A"), Cochran, Cherry, Givens & Smith (CCGS"), and Burr & Forman ("BF"). The Agreement provides, in relevant part:

> 45% LEGAL FEE. If no recovery (by settle ment or trial) is obtained, client will not owe a legal fee or expenses. If B-A, CCGS and BF obtain settlement for Client, Client will pay B- A,CCGS and BF forty-five percent (45%) of the total recoveryless expenses.

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[1]Actually, on August 10, 2004, the Defendants filed a "Motion To Transfer/Consolidate And To Dismiss," while the case was pending before another Judge on this Court. (Doc. 9.) The case was ultimately consolidated and transferred to this Judge, who granted the motion to dismiss on the ground that the Plaintiff had released his claims against the Defendants when he accepted a settlement check. (Doc. 45.) On appeal, the Eleventh Circuit reversed, holding that the motion to dismiss was to be treated as a motion for summary judgment; and that Plaintiff had not been afforded the opportunity to respond to the motion. (Doc. 52.)

TERMINATION OF THIS AGREEMENT. If this agreement is terminated before the case is resolved, Client gives B-A, CCGS and BF a lien against any subsequent recovery in this case for B-A, CCGS and BF's time and expenses. If an offer has been negotiated, B-A, CCGS and B-F will have a lien upon any subsequent recovery equal to 45% of the offer, or an amount to compensate for time and expenses, whichever is greater.

MISCELLANEOUS. Client has read this agreement (or has had it read to him/her) and agrees to be bound by these terms. Any modification in the terms of this agreement shall be typewritten or handwritten in the margin below and initialed by both parties.

(Doc. 9 at 22.)

2. On March 7, 2002, Plaintiff sent a letter addressed to "B-A, CCGS, and BF," at Post Office Box 4160, Montgomery, AL 36103-4160. The letter reads:

RE: Request Attached

Please see enclosed the original PCB agreement, however; I am reserving my rights on this *agreement to negotiate the lien. The percentage (%) is too high. I must first recover before any subsequent

lien is had or realized.

Thank you.

(Doc. 9 at 21.)[2]

3. On March 12, 2002, someone at the Beasley-Allen law firm acknowledged receiving this March 7 letter, which was delivered in an envelope addressed to David Byrne, III, an attorney at the Beasley-Allen law firm.[3] (Doc. 9 at 23)

4. On April 23, 2002, Defendant O'Rear wrote to the Plaintiff and informed him that the Beasley-Allen law firm would no longer represent him. (Doc. 9 at 24.) A month later, O'Rear sent a second letter to Plaintiff advising him that on re-evaluation of Plaintiff's file, the firm would continue to represent him if he so desired. (Doc. 9 at 26.) O'Rear's letter also indicated that Plaintiff should notify O'Rear "in writing right away if" Plaintiff did not wish for the firm to continue representing him. (*Id.*) On May 29, Plaintiff responded: "Please pursue this claim. I accept. Thanks." (*Id.*)

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[2]Throughout the proceedings related to his fee agreement claim, Plaintiff has proceeded pro se.

[3]While the signature on the return receipt document is unclear, the signature does not appear to be that of David Byrne, III. (See Doc. 9 at 23.)

5. Thereafter, Plaintiff was added by the three retained law firms as an individual plaintiff in *Tolbert*.

6. Neither Jere L. Beasley, J. Gregg Allen, William G. O'Rear, Jr., the Beasley-Allen Law Firm, nor any attorney in the other two law firms has agreed to a modification of the March 7, 2002, PCB Fee Agreement at anytime.

7. None of the Defendants have executed a separate retainer agreement with the Plaintiff for representation in the *Tolbert* case.

8. On June 8, 2004, Plaintiff filed, in *Tolbert*, a document styled "Motion for Summary Judgment."[4] (*Tolbert* Doc. 323.) The document was captioned, "VAN LOCKWOOD, 'et alius' Plaintiff, V. TOLBERT et al MONSANTO" and it indicated that it was a

> COMPLAINT; FOR ATTACHMENTS, COMPULSORY COUNTERCLAIM,... CROSS-CLAIM.... REPUDIATION, UNJUST ENRICHMENT, DISGORGEMENT, LIEN AGAINST ATTORNEY FEES, CONSTRUCTIVE FRAUD, AND SEEKING A CONSTRUCTIVE TRUST.

(*Tolbert*, Doc. 323 at 1.) In this Motion for Summary Judgment, among other things, Plaintiff stated that

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[4]As noted earlier, Plaintiff was one of the more than 18,000 named plaintiffs in the *Tolbert* action.

his "claim is for 28% of the $120 MILLION DOLLARS out of courts settlement." (*Tolbert* Doc. 323 at 13.)

9. The three law firms representing the *Tolbert* plaintiffs received an aggregate attorney's fee of $120 million from the Settlement Fund in that case.

10. The Court summarily denied Plaintiff's summary judgment motion in the *Tolbert* case on June 16, 2004. (*Tolbert* Doc. 329).

11. Final Judgment was entered in *Tolbert* on August 10, 2004. (Doc. 9 at 30-37.)

12. The *Tolbert* Final Judgment and Order provides, in pertinent part:

> 10. The terms of the Settlement Agreement and this Final Judgment and Order shall be forever binding on all Plaintiffs (as defined in paragraph 11), as well as their heirs, executors and administrators, successors and assigns; and those terms shall be res judicata and have other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained or on [sic] behalf of any such persons, to the extent that such claims, lawsuits, or other proceedings involve PCBs in Anniston, Alabama or other claims that could have been raised by this action or are otherwise encompassed by this action and the Final Judgment and Order of the Court.

> 11. This Final Judgment and Order shall be binding on all parties to this action.... Plaintiffs to be bound shall be defined as all persons named as plaintiffs in any complaint or amended complaint filed in these actions to date....
>
> .....
>
> 13. The Court shall retain complete jurisdiction of this action, all parties, and all related matters. (Doc. 9 at 36, 37.)

13. Plaintiff did not appeal either the denial of his motion for summaryjudgment in *Tolbert*, or the Final Judgment and Order entered in that case.

14. Plaintiff's claims against the Monsanto Company were settled in the *Tolbert* litigation.

15. While the instant action was pending, Plaintiff continued to participate in the settlement aspects of Tolbert. He received a $500 check during the initial phase of the settlement administration. His body was tested for the presence of PCBS; and once his PC level was established, he received several other checks from the settlement administrator. He does not know how much in settlement funds his lawyers obtained for him, but he thinks it to be between $4,000 and $10,000.[5]

[5] Plaintiff says that he only negotiated the $500 check and that it did not contain release language. Afterward, he opened envelopes with checks for $925.79 and $1538.00 respectively, but did not negotiate the checks because of the release language. For that reason, he did not open other envelopes (presumably with checks in them) from the settlement administrator.

16. Within two weeks of the denial of his summary judgment motion in *Tolbert*, Plaintiff filed the instant action on July 1, 2004.

17. In the original complaint filed in this action, Plaintiff says, among other things:

> On June 8, 2004, 1 filed a motion for summary judgment under the "style" that gave the true Defendants, (herein should be known as B-A et al Law Firm) an opportunity once again to settle this matter "out of court" without suing them directly or carrying them before the Alabama Bar; however from June 9, 2004 untill today June 25, 2004,they still have not as yet provided me with adequate assurances that they intend to do the right thing and pay the claim for 28% out of courts settlement ....

(Doc. 1 at 4.)

CONCLUSIONS OF LAW

1. None of the individual Defendants entered into a retainer agreement with the Plaintiff. Therefore, each of them, in his individual capacity, is entitled tojudgment as a matter of law. See *Drummond Co., Inc. v. Walter Indus., Inc.*_, So. 2d_, No. 1041029 and 1041221, 2006 WL 3462146, at * 17 (Ala. Dec. 1, 2006) ("A contract cannot be formed without an offer, an acceptance, consideration, and mutual assent to those terms essential to the contract.").

2. The PCB retainer agreement executed between the Plaintiff, the Defendants' law firm, and two other law firms that provides, in the event of settlement, the firms would be entitled to forty-five percent (45%) of the recovery has never been modified; therefore, the agreement remained in full force and effect at all material times. See *Beiersdoerfer v. Hilb, Rogal and Hamilton Co.*, 953 So..2d 1196, 1206 (Ala. 2006) ("Any terms of [a contract] not effectively modified remain[ ] in effect.").

3. Plaintiff's March 7, 2002, letter to the three law firms did not indicate an intention to modify the "45 % Legal Fee" provision of the PCB retainer agreement; rather, the letter sought to modify the "Termination" provision, which embodies language concerning a lien. In any event, Plaintiff s letter did not constitute a modification in the PCB retainer agreement. See *Kinmon v. JP. King Auction Co.*, 276 So. 2d 569, 570-71 (Ala. 1973) ("Contracting parties are free to modify their contract by mutual assent. [However, [u]nilateral grumbling cannot modify a bilateral contract.") (emphasis added).

3. As a matter of law, the law firms which represented the Plaintiffs in the *Tolbert* litigation, including the Plaintiff in the instant case, were entitled to $135 million as fees, rather than the $120 million which they actually received.

4. In view of the executed PCB retainer agreement, and the law firms' performance of their obligations under the agreement, to the extent that they maybe deemed defendants in this action, the law firms are entitled to judgment as a matter of law on the Plaintiff's claim.

5. Since the individual Defendants and the three law firms that represented the plaintiff in *Tolbert* were not parties to that action, and the causes of action were not identical, Plaintiff's claims are not barred by the doctrine of *res judicata*. *Davila v. Delta Air Lines, Inc.*, 3 26 F.3d 1183, 1187 (11 th Cir. 2003); *Jang v. United Tech. Corp.*, 206 F.3d 1147, 1149 (11 th Cir. 2000).

5. Since the resolution of Plaintiffs claim against his attorneys was not essential to the judgment in the *Tolbert* litigation, Plaintiff is not collaterally estopped from maintaining any action against the individual Defendants or the lawfirms which represented him in that litigation. *Precision Air Parts v. Avco Corp.*,736 F.2d 1499, 1501 (11 th Cir. 1984); *Vazquez v. Metropolitan Dade County*, 968F.2d 110 1, 1106-08 (11 th Cir. 1992).

6. Plaintiff's claim for $36.6 million from the Defendants is completely without merit and frivolous.

By separate order, final judgment will be entered in favor of the Defendants and against the Plaintiff.

Done this 31st day of August, 2007.

U.W. Clemon
United States District Judge

UNITED STATES DISTRICT COURT
Northern District of Alabama
Office of the Clerk
Hugo L. Black United States Courthouse
Room 140, 1729 5th Avenue North
Birmingham, Alabama 35203
(205) 278-1728

October 11, 2007

Thomas Kahn, Clerk U.S. Court of Appeals, 11th Circuit 56 Forsyth Street, N.W. Atlanta, GA 30303

U.S.D.C. No.: CV-04-1405-UWC-E
IN RE: Van Lockwood v. Jere L. Beasley, et al.,

Enclosed are documents regarding an Appeal in this matter. Please acknowledge receipt on the enclosed copy of this Transmittal.

X Certified copy of Notice of Appeal, Docket Entries and Judgment/Order and Opinion appealed from enclosed. Please check if judgment was oral:

First Notice of Appeal?

Dates of other Notices:

The following materials SEALED in this court (order enclosed) consisting of:

Original papers (court file) and certified copy of docket entries per USCA request.

There was no hearing from which a transcript could be made.

Copy of CJA Form 20 or District Court order appointing counsel.

X The appellant docket fee has been paid.
Paid October 2, 2007.

The appellant has been_____leave to appeal in forma pauperis and a request for certificate of appealability (order enclosed).

X The Judge/Magistrate Judge appealed from is:
Judge U.W. Clemon
The Court Reporter is: 205-252-6565.

Other:

SHARON N. HARRIS, Clerk

By: Sonja R. Jenkins
Sonja R. Jenkins, Deputy Clerk

xc: Counsel

APPENDIX I

Also was filed at 11th Cir. as Ex. #3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

CASE NUMBER: 1:04-CV-1405-UWC
ALABAMA
PROOF OF TIMELY FILINGS
Oct. 1, 2007

VAN LOCKWOOD

v.

U.S. COURT OF APPEALS
RECEIVED
CLERK
JAN 04 2008
ATLANTA, GA.

Plaintiff,

JERE BEASLEY,
GREGG ALLEN,
WILLIAM O'REAR, JR.

07 OCT -1 PM 4:31
U.S. DISTRICT COURT
N.D. OF ALABAMA

Defendants.

MOTION FOR RECONSIDERATION

"REST IF YOU MUST:
BUT DON'T YOU QUIT
ON AN UNJUST MISFIT."

1 of 82 pages thereto Doc. 74 total 100 pages.

UNDISPUTED FACTS
RULES OF CONTRACT CONSTRUCTION

OBJECTIONS AND DISCUSSIONS:

Comes now, the buzzwords that this case will or should be granted and affirmed on are in the following under the offeree **INQUIRY** on March 7, 2002, Ex. A- 1

& A-2; the offeree Ex. A-3 is proof of delivery and creates power of acceptance in the offeree, Van Lockwood, the Plaintiff/Appellant, and;

The second buzzword that this case will or should be granted or affirmed on is **NEGOTIATIONS**, which manifested its intention in the form of inquiry (request) which is initialed on the original PCB Agreement, last paragraph under MISCELLANEOUS and is marked together as Lockwood's, the offeree Exs. A-1 & A-2 in the above style caption of Ex. A-1; you will find the words in the center of the page attached request. Here again, the offeree, Lockwood's exhibit in A-2, you will find in the lefthand column the word (request). This offeree is operating his offer as an inquiry. He is careful not to reject the offer, - he wants to leave it on the table (summary judgement all day). The original main offer remains open when the offeree indicates intent to keep the inquiry and offer ("open under advisement" to do what?.... to negotiate). The Eleventh Circuit Judges understood this, they picked up on this. (Lockwood V.Beasley, December 20, 2006) This case is still lagging behind for almost five (5) years; under the rules of contract construction and enabling act, the Defs remanded don't want it to make sense because they may have never learned it or have forgotten it is the legal prognosis;

The third buzzword that the case will or should be granted or affirmed on is **DETRIMENTAL RELIANCE** for the record. Detrimental Reliance is a substitute for consideration and is a legally sufficient and a proper fit of justice in which no new consideration is needed to be advanced by the offeror or the offeree. After the assent, Ex. C-1, letter dated May 23, 2002, see the Appellant/Plaintiff Exs. A-1, A-2, A-3, C-1 & C-2 sent certified mail is not a legal rejection of the offeror. In legal rethinking, Van Lockwood is not making an offer, he does not become the offeror, he is only making an inquiry; since it bears repeating... let me say it again, "but Van Lockwood at the time of contracting is making a "mere inquiry" (request) on the original PCB Agreement known as Exs. A-2 & A-1 March 7, 2002", and thereto I repeat, we find the offeree Exs. A-1 & A-2, which is an "inquiry", (request) on the original PCB Agreement known as Exs. A-2 & A-1 - March 7, 2002 to the offeror, William G. O'rear, Jr.. I am the offeree, Van Lockwood. In the year of 2002, this is called the *offer and acceptance* period. See Lockwood V. Beasley, (December 20, 2006,11th Circuit). See Footnote 1, *consider summary judgement for Van Lockwood* is what these Eleventh Circuit Judges are telling the District Court, i.e., the Appeals Court is telling the District Court that they never considered or addressed the merits and issues on the claim between the offeror and the offeree, which makes good sense to me, because they are saying that the Court's actions are outside of the pleadings, and gave no notice of its conversion under Rule 12(b), which was not assertive by the Defs in relationship to the Anniston so-called fairness meeting, because at that time there was no place of opportunity for William G. O'rear, the offeror, to bring B12 motions or supporting affidavits. For the record, I object, de nova.

This legal thinking would also hold true under the Bowdre Court Theory, - July 1, 2004. The remand in Lockwood V. Beasley imputes this abuse of discretion to both Courts, the Bowdre's Court and the Clemon's Court and the Eleventh Circuit stood by its precedence and cited the law in its mandate. Keep in mind, the offeror and offeree, under rule of contract construction created a legal creature to which the offeror, William G. O'rear has bounded his employer to liability - that is what I believe the Eleventh Circuit saw at Footnote 1 of their mandate. If the District Court were under the rules of contract construction on the good and full merits, they would have found that the offeror, William G. O'rear could not revoke his offer when the offer remained on the table, and induced performance in which he admits and attests to in his May 23, 2002 letter that he is *continuing performance.* See the letterhead from Beasley-Allen in Ex. C-1. See the initials (inquiry - request) which leaves the open offer still on the table for 76 days until assent on May 23, 2002. [HERE] we reached lawful attorney fees which is inclusive in the whole would-be settlement by course of performance, which is deemed to be an implied contract, which is also an executory contract thereto the March 7, 2002, Exs. A- I &A-2 and C-1 & C-2, in which I brought to Your Honor's attention @ doc. #'s 46, 47, 38, and doc 41, - July 1, 2004 in the Bowdre's Court.

The offeree skillfully, legally, and successfully kept the offer open. It is deemed to be an executory accord thereto express language by words in Exs. A-1 & A-2 and C-1 by the offeror's conduct, and is what the Eleventh Circuit saw at their Footnote #1 that favored the Plaintiff/Appellant offeree. Van Lockwood, the offeree to the offeror, William G. O'rear, formed a quasi contract which was actually formed when the offeree

mailed the offer on March 7, 2002 back to the offeror apparent William G. O'rear, Jr.

Think about it, Your Honor, for the first time.... an offeror, (O'Rear) may not revoked his offer after acceptance. See Ex. A-3, March 12, 2002, doc. # 1. The apparent authority(O'Rear) should know as an attorney that offer plus acceptance = contract [quasi], option contract, implied contract after 76 days, March 7, 2002 until April 23, 2002, E. C-1 from initials WGO/dep comes into law of the contract, which is in fact unilateral that induced performance by admissions and implied consent to the *detrimental reliance.* On an implied consent,Your Honor, you don't need words. You look at the Party's conduct. If the offeror wanted a different result, he could have sent out a new PCB Agreement and he could have asked me to sign it by date and time. He did not do this, and even if he had done it, Your Honor, he would have been bounded by the pre-existence legal duty, in which I would have not been obligated to do anything else. The proposition in Lockwood V. Beasley is that the offeror must come through the open door of negotiations to remove a lien off the whole res. Because the power of acceptance is created in the offeree which manifests a legal road map as to how he must get his discharge from the offeree on a unilateral warning Inquiry at the time of contracting.

The offeror who advertised the offer upon receiving it on March 12, 2002, it could not have been revoked by W.G. O'rear anyway. An offeror, under rules of contract construction and enabling statutes, may not revoke an offeree's offer once it is accepted by the offeree. His rights to revoke is what the Eleventh Circuit saw. The Eleventh Circuit Court of Appeal knew that an offer may be revoked only prior to the

acceptance by the offeree, and a competent Court of jurisdiction should know this is on reconsideration. You should as a matter of law grant summary judgement to me on reconsideration. This is Van Lockwood's summary judgement case. The Courts should know this, because it's not a counter-offer, it's a mere "inquiry" (request). I made sure I did reserve and preserve my rights on Exs. A-1 & A-2, that is unilateral which induced performance actual or implied and was sent certified mail as warning and notice that is foreseeable under *Hadley V Baxzendale*, which must be done, i.e., inquiry and notice at the time of contracting. Another smart way, Your Honor, of thinking about the word (request) and inquiry, the rule of contract construction would support me by literally saying it, "under advisement" of the offeror for in this instance, 76 days.

Your Honor Judge Clemon, the offeror, O'rear, cannot kill the offer. "No revocation" by the offeror, because the power of acceptance is in the offeree, and I have been saying this since July 1, 2004. *The offeror may at anytime revoke his offer prior to the offeree acceptance* is what the rule of contract construction tells us, and this is summary judgement of the merits to favor the Appellant/Plaintiff at the Footnote #1 of the Eleventh Circuit, 2006. *No more issues at doc. # 59 about Lockwood having to prove a check* is what the Eleventh Circuit told us. There was no res judica or collateral estoppel. This was remanded by three (3) Judges and had they found it, they would have affirmed it, i.e., that Lockwood had a full fair adjudication to sue (O'rear) on the merits. First, it would have had to include a full adjudication on the merits for both Van Lockwood and William G. O'rear. This was the basis of the Appellees/Defendants argument at the

Eleventh Circuit. The inherent power and jurisdiction of the 11th Circuit could have affirmed William O'rear and the District Court, but they rejected the Court and William G. O'rear because.... the Court is still outside of the rules of contract construction.

Constitutionally, the rules of contract construction are legally sufficient within the enabling acts of U.S. Congress; to abridge the Parties rights to sue, or rights to make contract on First Amendment grounds would offend the traditional notion in the United States Constitutional Contract Clause where I, Van Lockwood, find detrimental reliance imputed to Attorney William G. O'rear, i.e., he knew or should have known that I would rely to my detriment when I made inquiry and left the offer open on the table in Exs. A-1 & A-2. It reached legally the entire res, and now, it has reached the amendment complaint that went untimely and unchallenged and thereby comes in as an admission by Defendants implied conduct (offeror's counsel). The case is deemed to be adverse to the offeror's counsel since July 1, 2004, and the District Court should know this on its good merits for the record, and such rights should have never been denied for almost five (5) years now ... My motions have been adverse to the offeror and the offeror's counsel. It is far too late for the District Court or the offeror's counsel to talk about what Parties should have done (extrinsic). In the interest of justice, the facts of this case leave no issue, even so, the offeree,Van Lockwood would prevail on detrimental reliance principles that apply the Rule of Contract Construction and the U.S. Contract Clause excludes extrinsic offers, or legal opinions that are deemed to be outside of the scope of these rules and the offeree must prevail as a matter of law.

We are bound by the rules - it shows the intent that bound us. We should think that warnings equals (=) unilateral as a final expression; the buzzword, a bright-line buzzword is negotiations on - March 7, 2002 agreement. I reaffirm that Van Lockwood's Ex. A-1 tells that I am reserving my rights in which there is no foreseeable or extrinsic res judica attempts that would precluded me from suing William G. O'rear, because the Defs have never made a compulsory or personal affidavit to dispute, or show evidence that they have performed perfectly on what is deemed to be a condition subsequent for nearly almost five (5) years now. The law is, in spite of the Defs counsel pleadings, nothing more than (his) notarized arguments outside of the pleading and not annotated to the complaint as responsive since - July 1, 2004. O'rear, the offeror, is [A] condition subsequent, shifts the burden of proof to the Defs, in which the Defs must show that their duty on the expressed conditions they assent to by implied consent and show actual consent have been perfectly performed. If they do not show that they have attempted to negotiate, which is one of the conditions that they assented to, then summary judgement at the footnote of the Eleventh Circuit of Appeals is something right and pragmatic within the rule of contract construction and enabling acts on the merits. There is no collateral estoppel against William G. O'rear, Jr., otherwise, the inherit power, - the Eleventh Circuit in their December 20, 2006 decision would have affirmed that Van Lockwood had a full and fair hearing against Attorney William G. O'rear, Jr. No certiorari needed.

Three (3) Judges said, "No" by their actions and mandate final - January 18, 2007. They said that this District Court never, I mean never, considered Van Lockwood's Motion for Summary Judgment (merit). As

a matter of fact, their counsel, Robert Huffaker also told the Eleventh Circuit that the District Court never reached the merits with Van Lockwood. Thanks, Mr. Huffaker, at least we agree on something for the record. The great percentage of multiple litigants writing in their complaints to the Court as I did is not a full hearing on the merits on a mistaken and improper style letter, but I feel are on the First Amendment Rights and Constitutional grounds – even at the fairness meeting Judge U.W. Clemon stopped Van Lockwood from talking May 29, 2004, and this is not a "full and fair rights" public meeting response to sue William G. O'rear, who was not identified in any affidavit in Rule 56(e), and the Court gives no notice it was converting a fairness meeting response into summary judgement on the merits outside of the request or pleadings, and cannot show where anyone had personal or firsthand knowledge that Defs have performed in accordance with the March 7, 2002 inquiry that lead to a manifested assent, or whereby William G, O'rear was discharged by facing Van Lockwood in negotiations. Neither could it be implied in a motion or an answer to the Bowdre's Court or Judge U.W. Clemon's Court, and it was not appeal ready, no transcript and a special master cannot grant summary judgement, Defs must actually perform. They cannot escape the performance. They need an affidavit in Rule 56(e) to show they performed, i.e., from someone that can show evidence of the performance that has personal and firsthand knowledge that William G. O'rear personally attempted to negotiate or cure the impending detrimental reliance of a lien on the res of the whole settlement.

[No] new consideration is needed after the offeror - May 23, 2002 assent letter from Defendants Jere Beasley, J. Gregg Allen, William G. O'rear, Jr. and

Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. (collectively known as "Beasley-Allen or B-A"). Their vicariously and apparent authority that bound the Defendants name is - Attorney William G. O'rear, Jr. He bound them in all of law on summary judgment that the Eleventh Circuit Judges apparently picked up on. The Appellant/Plaintiff, Van Lockwood in Exs. A-1, A-2, & A-3 and C-1 is the four corners and final expression of the agreement and also by assent as to how William O'rear would be discharged, invokes issues that can be only cut off by actual and substantial performance in which the Eleventh Circuit Judges Black, Marcus, and Fay realized had not been had in the acceptance of the offeree, i.e., Van Lockwood by his request for the record.

I was lawfully careful to not reject or counter the offer when I mailed via certified, Ex. A-3 to David Byrne, III, P.C., (Byrne appeared as one of the lawyers on top line of Ex. C-1), P. 0. Box 4160, Montgomery, Alabama 36172 on March 11, 2002, postal prepaid certified mail. The green card also was address to Jonnie C. It was signed for by what looks like the signature of Avery Harris on 5/12/02. Also, on the upper lefthand corner of Ex. A-3, a certified mail official certificate mail receipt shows $4.86 was paid. It was sent to David Byrne, Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. So, there is no need for Huffaker to spin his wheels in a dance before this Court after almost five (5) years, to aggravate the Court with a new issue outside of the pleadings - August 24, 2007, and which are not annotated in his motions nor a responsive answer. I object. There is a lien against the res.

CONCLUSION

CONCLUSION ON EXHIBITS A-1, A-2 AND C-1, DOCKET NO. 1, SUMMARY JUDGEMENT MOTION - JULY 1., 2004. SEE THE FOOTNOTE 1 OF 11th CIR., DECEMBER 20,2006) BY PLAINTIFF, DR. VAN LOCKWOOD, FOR THE RECORD

Communication of offer by the offeror to the offeree creates power of acceptance in the offeree, i.e., Van Lockwood, once the offeror received the offer from me. A contract was formed in quasi accord (executory) under *Hadley V. Baxzendale*. Van Lockwood's reserved rights excludes extrinsic schemes or third party that will seek to set asunder between the offeror and the offeree, because he is not in privity of agreement, and also, third party attempt performers are extrinsic, not open for advertisement in this instance between (Lockwood and O'rear) what is not open on the table to the offeree, e.g., Edgar Gentle is not a proper party to a novation. See: Novations, (substituted contract).

[HERE] I remind the Court that William G. O'rear, offeror, the offeror is under a pre-existing legal duty to perform what potentially became negotiation and settlement. The affirmative duty to act shifted the burden of proof to the offeror, to prove that he actually performed on rights reserved on the whole res of settlement to the offeree, Van Lockwood.

DEFINING LIEN, LOCKWOOD'S EX. A-1, DOC. # 1, - JULY 1, 2004:

See: Black's Law Dictionary, 1891- 1991, page 635, line 7:

> A lien is a claim encumbrance on payment for some foreseeable debt, obligation, or duty or property constructive trust, e.g., equitable lien is defined as a security for a debt, duty, or other obligation. A lien is a tie that binds property or money expected to a claim of satisfaction acquired by contract or by operation of law.

For the record, Van Lockwood legally placed a lien on the entire would-be potential settlement, yes, in whole. It includes attorney fees and it is not limited the whole $300 Million Dollars or $1.5 Billion Dollars (absent agreement). The complaint was amended to $1.5 Billion Dollars. The Appellees/Defendants did not timely challenge the amount in Rule 15(a) as pointed out by the Eleventh Circuit Court of Appeals in (Lock-wood V. Beasley, 11th Circuit, 2006). A lien in Ex. A-1 is *the legal consequence from a relation of parties or circumstances of their relationship.* Lockwood V. Beasley as stands for third party standing throughout my legal briefs.

What I am about to say next, one must be able to follow me, ...because if you are an older lawyer, you may have simply overlooked or need to be refreshed on some of these rules of contract construction and may become confused by what I am saying, and it may be that one never did get this down right in the first year of Law School and "I clearly am not smarter than anyone else" as the Offeree and Plaintiff ... Follow me now ...

Inquiries leaves the original offer and accord open when the offeree indicates intent to keep the offer opened. My reserved rights which are still on the table in Judge Bowdre's Court, - July 1, 2004, when ripened against the offeror. I have been overlooked and no consideration has been given since - July 1, 2004. Such rights were left on the table opened by inquiry (induced) detrimental reliance, a substitute for consideration on the course of performance for nearly five (5) years now and Black's Law Dictionary defines **course of performance** as:

> Conduct without objection between two parties during the performance of an executory contract open;

and has ripened for a lien against the whole is the proposition before us. Nothing else to skate around the performance. Alabama has a six (6) years statute on repudiation, not anticipatory revocation of the offeror, also five (5) years late. "No rights of Lockwood could be cut off, they are reserved by consent." The offeror consented to the suit - July 1, 2004 on detrimental reliance principle (knew or should have known I would rely to my detriment).

No release or a check does not need to be proved by Van Lockwood (11th Cir., 2006). Defendants cannot get a release because the inquiry - March 7, 2002 acts as a bar knowingly until negotiations were had and were confronted face to face with Van Lockwood, offeree. The Exs. A-1 and A-2 does not allow anyone to set asunder by happenstance to cut off rights that are foreseeable, to "merit" a negotiable end on the merits between only the offeror and offeree. Defendants need an affidavit to show that they actually performed in Rule 56(e).

NO RELEVANT ISSUES REMAINING TO PRECLUDE SUMMARY JUDGEMENT FOR VAN LOCKWOOD

The agreement, after May 23, 2002, Lockwood's Ex. C-1, doc. #1 indicates that a quasi and option contract becomes an implied contract thereto the performance in which O'rear admits he had started, and is continuing on the contract to work on the potential claim "under advisement" sought by Van Lockwood, - March 7, 2002. He has been working for 76 days. We do not need new consideration. He is performing under a forbearance as to how he will be discharged as well. He may be 21 years old, but he has bound the Appel lees/Defendants by his actions or non-actions for almost nearing five (5) years now, and it appears that only the Eleventh Circuit three (3) Judges Black, Marcus, and Fay have been able to understand that this was an inquiry and the original accords. The offer remained open when the offeree indicated an intent to keep the offer under advisement.

This is my case all day long; not only do I feel it's right, I know it's right after 28 years of reading, studying contracts, suing some and just letting some go. William G. O'rear impliedly in the May 23, 2002 letter needed to know if I had hired someone else after 76 days to which he replied that I should let him know right away, and in my reply on May 29, 2002 on the face of Ex. C-1, having both of our initials, I said, I accept and signed it Dr. Van Lockwood (reply). My rights were protected by the only subject matter that O'rear could give assent to, the inquiry that was under his advisement - March 7, 2002 (request). There is nothing else to talk about, nothing else to write about, there is only an open quasi contract leaning as a

lien upon the res of the whole settlement waiting for Appellees/Defendants to come forth and negotiate in accordance with Exs. A-1, A-2 and C-1 & C-2, which will be granted as summary judgement by this Court or hopefully by the Eleventh Circuit of Appeals, and, that it does not come back as a remand in a second instance.

UNDISPUTED FACTS OF LAW, PRINCIPLE, AND AGENTS COMMON LAW AND THE MODERN TREND

DISCUSSION:

William G. O'rear, under the respondeate superior principle and agency, the Uniform Partnership Act (U.P.A.), master and servant relationship was bound by conduct implied, thereto Exs. A-1, A-2, & C-1, "summary judgement", even though we don't use those terms anymore, i.e., master/servant today, servants have the inherent power and actual authority and apparent authority to have autonomy, we say employer and employee. In this instance, Jere Beasley is the master and Attorney William G. O'rear is the servant, and masters, i.e.,(skills of this kind) are responsible for their servants. Servants, agents, partners can bound their masters or principles. We call them masters because they master something that they are skilled in, and whether they are farmers or attorneys, they are responsible to the public, and the offeree in this instance, by detrimental reliance.

Summary Judgement is due Van Lockwood as a matter of law. Beasley-Allen Law Firm are deemed to have some autonomy and control over their servant's conduct, which can and has exacted and imputed liability, e.g., William G. O'rear gave assent on the inquiry

by time and conduct implied. I worked for Ford Motors Company as one of the top salesman (every salesman wanted to know "what are your secrets", and one of the secrets is listening to the customer...) Now that I have your attention, as Plaintiff/Appellant, Ford was called the master because he mastered the art of manufacturing and selling cars. When Ford conferred communications' power upon me as their servant, I, Van Lockwood, became their servant on 1st level of communication, to represent them to bespeak, bind, and bound and to accept on behalf of my employer - in fact and make contract into law. I became the offeror and the public became the offeree, which creates power of acceptance in the offeree. A unilateral agreement that induced performance or acceptance may not be revoked by the offeror, -William G. O'rear, Jr., and the offer in the first place. Both O'rear and Van Lockwood, offeror and offeree, began to act in detrimental reliance.

Consequently, (*emphasis added*) when a Party reserves rights, *see* ***Alabama Code12-21-09*** *on* ***reserved rights of a Plaintiff*** *at the time of contracting where a* ***Plaintiff expressly reserved all rights on a claim*** *and cause a* ***action*** *against it where a release* ***does not terminate*** *the Plaintiff's rights, and the* ***Trial Judge erred in granting summary judgment*** *to favor Defendants, see* ***Salter V. A Fraser Patillo, Jr. Inc., 519, So. 2d. 930 (Ala., 1988).***

In Exhibit C-1, Van Lockwood does not need to seek new consideration on the inquiry. The contract could not be revoked. William G. O'rear has by his conduct implied that a contract exists. He (O'rear) states on **(May 23, 2002, Ex. C-1),** "we re-evaluated..." (inquiry-request) and he states that he has begun **"continued"** performance and he also by his admit-

tance has the actual knowledge of the **offeree**, Van Lockwood, and he states in **Ex. C-1, "Please notify me right away, if you do not wish for our firm to continue working with you on your potential PCB related claim"**, (last paragraph, dated May 23, 2002). See his initials, *WGO/dep* and longhand as it relates to a manifested **detrimental reliance**, also known as a substitute for consideration meaning that **Attorney William G. O'rear** knew or should had known that I would rely to my detriment on the promise, also we look to the conduct of the Parties. The documents in Court are the *original agreements "under advisement"*. Since William G. O'rear did not send out a new PCB Agreement (when required), he was **bound** on the original quasi inquiry notice anyway when he received the acceptance, a contract was formed quasi. See Lockwood's Ex. A-3, dated - March 12, 2002, certified mail addressed to his principle and apparent authority, David Byrne, III, Certified Mail Return Receipt: 7001 0320 0002 9797 7886, postage prepaid by Van Lockwood, $4.86. It was assigned to Attorney William G. O'rear, Jr., who goes by the initials, WGO.

I have 28 years experience in enforcing contracts, self-employed. I think I know something about enforcing contracts. I know something about leaving the deal on the table as I did with O'rear. I think I know something about the offeror and the offeree, or making an inquiry reserving the original PCB Agreement is what I said - March 7, 2002 to William G. O'rear. Any other extrinsic, prejudicial or legal opinions are not supported by a personal affidavit from Defendants that would counter what the Parties were assenting to. We look to what actually took place under Rule of Contract Construction. I have worked there from the Richard B. Russell Federal Building, General

Services Administration, ASA Contractor as CWI Services and other named services to enforce contract with - FBI, United States Secret Service, The Executive Branch of the U.S. Government, many national private companies, Army, Navy, Air Force, to include **Debbie Moore's Aff., (witness @ dockets 1/ 1, #38, #47; same as dockets # 66, # 67** etc., other private companies, such as, Roadway Express.

Some of these contracts enforced were 500 pages or more long with blueprints attached. For several years, **Debbie Moore @ docs. #'s 47, 38, 66, and 67** has worked as my custodian of records and personal contract enforcement administrator on all these above projects, to include record verification of checks, employment background on workers, and also the personal handling of check number 007517, see (doc. #47). (In the Bowdre's Court, you will find Debbie Moore under Public Records of VAN LOCKWOOD CORPORATION) at the time with the Defs -March 7, 2002, PCB Contract, you will find the initials VL:dm, left-hand column which stands for Van Lockwood and Debbie Moore. You will find Debbie Moore again at dockets #'s 38, #47, #66, #67, #60, #61, #62, and doc. #1. The Defendants, under Alabama Law, were required to file a counter-affidavit, see Memorandum of Law.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

VAN LOCKWOOD,	*	
	*	
Plaintiff,	*	**CASE NUMBER: 1:04-CV-1405-UWC**
	*	
V.	*	
	*	
JERE BEASLEY, GREGG ALLEN, WILLIAM O'REAR, JR.,	*	
	*	
Defendants.	*	

MEMORANDUM OF LAW IN SUPPORT OF JUDGMENT AS A MATTER OF LAW (JMOL) AND MOTIONS FOR RECONSIDERATION AND DEBBIE MOORE'S AFFIDAVIT IN SUPPORT OF THE OFFEREE'S MOTION AND DOCKET #1 FOR SUMMARY JUDGMENT , FILED - JULY 1, 2004 AGAINST OFFEROR ON DETRIMENTAL RELIANCE, ALSO KNOWN AS DOC.#1, EXHIBITS A-1, A-2, & C-1, SEE: DOC. # 66, PROMISSORY ESTOPPEL ON IMPLIED CONTRACT IN QUASI ACCORD AS I REAFFIRM DOCS. 1-70, ABSENT DOC. # 59 EXCLUDED. SEE DOCS. 38,46,47,66 AND DOC. 67 FOR THE RECORD.

Memorandum of Law in support of judgment as a matter of law (JMOL) and motions for reconsideration and Debbie Moore's Affidavit in support of the

offeree's motion, and doc. #1 for Summary Judgement, filed - July 1, 2004 against the offeror on detrimental reliance, also known as doc. # 66, promissory estoppel on implied contract in quasi accord as I reaffirm dockets 1 -70, absent doc. # 59 excluded. See docs. #'s 38, 46, 47, 66, and 4 67 for the record.

Comes now, Defendants failed timely to file a motion against docs. 46, 47 & 67. Dockets 61, & 62, Debbie Moore's affidavit was filed one year or more ago, (370 days) to be exact. See docs #'s 46, & 47, dated April 21, 2006, - Defs filed @ doc. # 63, Motion on April 26, 2007, I objected. See: Under Alabama Law states the following:

> "It is essential that the affidavit denying the correctness upon which the action is maintain on being filed within the time allowed for pleading, and when this is not done, the Plaintiffs properly admissible in evidence. See: **Acha Hermonos YCIA V. Rosengrat, 17 Ala. App 267 84 So. 399 Ala. App 1919 Certiorari denied, 204 Ala. 85, 85 So. 265.**

At doc. 66, Van Lockwood filed a self-proving affidavit which is within Alabama Law –on April 27, 2007. Defendants did not file a timely counter-affidavit motion stating if it was attempting to strike whole, apart, or parts of Plaintiff s affidavit, which is mandatory under Alabama Law. That's all counter-affidavits must state, whether the counter-affidavit is in whole or parts or apart and this is not a permissive choice of counsel, also Defs Court's motion to strike the whole affidavit is not proper for counsel under Alabama Law, supra., may only have objected otherwise. The affidavit comes in as a whole and is admissible *failure to timely*

act, and excludes his motion to strike is not permissible, but mandatory. Defendants must also have proven his evidence and case by a counter-affidavit and showing and prevailing timely on the evidence over the affiant objection only. Defendants has not preserved the records de novo. Van Lockwood filed his affidavit on April 27, 2007. Defendants did not file a response and counter-affidavit under the rule "mandatory", and after he filed a motion to strike, it was almost120 days late @ doc.71 on August 7, 2007 from April 20, 2007 to August 8, 2007 for the record, I object. Alabama has mandatory rules in this instance.

Defendants counsel, R. Huffaker, did not file a counter-affidavit within ten (10) days. He filed his affidavit improperly, 370 days late. Debbie Moore's affidavit @ doc. 47 also known as doc. 38 comes in as an admission under Alabama Code 12-21-111-(6). The code addresses the sufficiency of an affidavit, which states this is question of evidence and the insufficiency of the affidavit ➢

> (6) Sufficiency of Affidavit. Motion to dismiss for failure to state a claim is not the proper method of raising the question of sufficiency of the affidavit. (Dockets 46, 47, 66, 67)

Alabama Law reads: This is a question of evidence and the insufficiency of the affidavit can be raised when it is offered in evidence. See: Elyton Land Co. V. Morgan, 88 Ala. 434, 7So. 249 (1890); Nabrgang V. W.K.R.G Radio Station, 38 Ala. App. 323 83 So. 2d., 733(1955).

In contrast before pretrial, Defs never offered doc. 59 in evidence to the offeree. When mail was returned to them, Defs' Certificate of Service was

effected, non-processed, and defective to avoid Van Lockwood challenging it, as a matter of law like the Clerk of Court, Sandra Jenkins to Chief Judge U. W. Clemon. See dockets 54, 55, 56, 57, 58, and 59. All mail between - March 3, 2007 through March 22, 2007 was not received, but was pending under complaint by the U.S. Postmaster. But Defs knew with a high degree of certainty (their certificate of service said they mailed two (2) copies). When the two copies were mailed, if they ever mailed them at all, they had a duty before pre-trial to inform the Court or the Plaintiff that doc # 59 was returned; rather than doing so, they were attempting to take advantage of incorporating evidence to gain an edge on documents that have no Regions Bank markings and/or authentications as to where Ex. A came from. Its on a plain sheet of paper that the declarant does not state that she is authorized to give out information legally on an account that is not legally the Defs account.

See Alabama Rule: "When motion to strike are not proper". (Alabama Code).The law read: "Defects in jurat of verified itemized account shall be raised by objecting to its introduction in evidence," not motion to strike from files. See Alabama Law Code, -12-11-111 (6), paragraph two (2) citing **Lambert V. Bowman-Moore Hat Co. 24 Ala. A311, 136 So. 738 (Ala. App. 1930)**, a long standing rule of law certiorari granted 223 Ala.1, 136 So. 740, Certiorari denied 223, Ala.. 420, 136, So. 741. Defendant Huffaker was required to file an objection by filing a counter-affidavit timely within the rules. See counter-affidavit legal requirements, "mandatory and not permissive".

> "Requirement of this section that counter-affidavit shall state whether or not

Defendants dispute the whole (account) or only a part or parts appears to be mandatory and not permissive."
See **Aplin V. Swift Agr. Chemical Corp. 53 Ala. App. 409,301, So. 2d. Ala. Civ. App. 1974).**

Defendants at docket did not file a counter-affidavit until 370 days, over a year later. To strike was not a proper motion and all of Defendant's motions to strike were not proper under Alabama Law when it concerns (not on file counter-affidavits). He must have stated it as an objection. Any part that he sought to dispute, he must have countered it with sufficient evidence, timely proving his case. This holds true for doc #1 - July 1, 2004, doc. #38, - May 12, 2005 is also known as doc. #47, Debbie Moore's aff.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

VAN LOCKWOOD,	*	
	*	
Plaintiff,	*	**CASE NUMBER: 1:04-CV-1405-UWC**
	*	
V.	*	
	*	
JERE BEASLEY,	*	
GREGG ALLEN,	*	
WILLIAM O'REAR, JR.,	*	
	*	
	*	
Defendants.	*	

MOTION TO STRIKE DEFENDANTS EXHIBIT A AT DOCKET 59 TO SUPPLEMENT THE RECORD (FOR SUMMARY JUDGEMENT)

Comes now, See: Counter-affidavit at dockets 66, 38, a/k/a 47, doc 67, renotarized by Albert Lyles, and doc 47. See Ex. A-112 - Ex. A-113 and doc 70. See all the Plaintiff's affidavits before it could not be tampered with. All have institutional bank markings that are self-authenticating and signed by a notary (in possession) of the check 007517, who by acknowledge Ex. A-113 & A-112 have stated and implied that when the check was in their possession, it did not have a release. See **N.W. Enter., Inc. V. City of Houston, (5th Cir. 2003**. See Lockwood's Ex. A-117 - A-118 at docket 62. See Lockwood's notice of evidentiary submission, and Van Lockwood's Affidavit at docket 66, showing what

was sent to him; filed on May 2, 2007, counter-affidavit, doc 59. Without comparison, you see clear convincing, evidence why the Eleventh Circuit remanded the case; comes from a creditable witness, the U.S Pentagon business record. A motion for objection and to strike entire doc.59 is based on my findings from "Regions Bank" Ms. Kimberly A. Burkhalter on September 27, 2007 as part of discovery of my investigation information at page 20 Ms. Burkhalter does work for "Regions Bank" in the Law Department in Birmingham, Alabama. She gave the recorded statements that she would not and did not give out information on said account advance by Beasley, Allen, Crow, Matheny, Portis and Miles, (for Summary Judgement Docket 59) to which the Court at doc.71 gave summary statement consideration to on September 24, 2007 prior to pretrial See doc.71.

Ms. Burkhalter also stated that it would have authenticated it on "Regions Bank" letterhead and she would not like to get involved with this Advancement. She stated it did not come from here, meaning her personal knowledge of any such record advanced by the Defendant as fraudulent.

Consequently, See Lockwood Ex A-121 from Jefferson County Probate court letter dated September 6, 2007 which purports that no such person (named Beasley) is a Notary in Jefferson County or at large in Alabama. Therefore defs do not have a witness on doc.59 that can "authenticate" an affidavit in support of summary judgement, to which District Court at doc. 71 gave value to for consideration; this was intended by defendants to sway his opinion, and to exclude the Plaintiff Lockwood from ever having the opportunity to challenge doc. 59, because defs were

very sure I would have... so they move only immediately after "remand" at a time when mail was being returned to the Court. The Court gave notice at doc. 54 though 59 that mail was being returned. Doc. 58 arbitrary was a U.S. Postal clerk error - a complaint was filed with the Postmaster. Explanation unknown.

On the June 8th - 16th, 2004 Denial, when Defs were not even given opportunity to "cure" within the free time before the suit was filed by Lockwood, the Court was willing to kill that opportunity and cut off their rights and my rights, to favor Defendant, not knowing what Defendant might have done to correct this matter. I did not hold a J.D. until 2005 but I did know that I could not sue Defs in the June 8, 2004 letter style or the May 30-31, 2004 Fairness Meeting, because it would not have been a reasonable course of action until July 1, 2004 in which I contend that course of performance, detrimental reliance and promisary estoppel was there to a reasonable inquest leaves the offer on the table is deemed to become a forbearance. For the record.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

VAN LOCKWOOD,	*	
	*	
Plaintiff,	*	**CASE NUMBER: 1:04-CV-1405-UWC**
	*	
v.	*	
	*	
JERE BEASLEY,	*	
GREGG ALLEN,	*	
WILLIAM O'REAR, JR,	*	
	*	
Defendants.	*	

LOCKWOOD'S RENEWED MOTION FOR J.M.O.L. ON THE ALTERNATIVE MOTION TO TRANSFER THE CASE BACK WHERE A CAUSE OF ACTION LIED, JULY 1, 2004 FOR SUMMARY JUDGMENT FOR VAN LOCKWOOD'S CV-04-BE-1405-E, SINCE THE COURT'S MOST RECENT FINDINGS THAT PLAINTIFF HAS A CAUSE OF ACTION AGAINST JERE BEASLEY, GREGG ALLEN, AND WILLIAM O'REAR, JR.

Since the Court decided that unjust enrichment is not a legal bar to res judica or collateral estoppel when the judgment alleged from the Anniston, Alabama so-called "Fairness Meeting" was "not essential" to the case, in which Lockwood could not have joined easily or [1]

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[1]**Therefore, the conduct of Plaintiff does not merge into any order in 1:04-CV-1407-UWC absent due process and notice from my(defendants-attorneys, B-A), I object, and from-June 8, 2004 until June 16,2004, no suit was filed under Alabama Rules of Civil Procedure. Rules 4/12**

[1]**FOOTNOTE: (cont.)**

defines what constitutes a Plaintiff and Defendant. Lockwood's participation was induced by this administration induced "must" cash check policy, (see exhibit, Lockwood's evidence, Ex. A-123 proof, third party standing as well), not limited to "Deloris Simmons Owens", Staff Attorney to Judge U. W. Clemon advising Lockwood that the case CV-1407-UWC was closed and he needed to file a new lawsuit; [HERE] vicariously the Court was speaking.... only a few days estimated around June 28, 2004 just before July 1, 2004 suit was filed.

I hold that documents and witnesses central to proving this staff attorney and/or (some) other persons are not limited to showing prejudice via tape recording or answering machine messages. May the Court take judicial notice that the Court's most recent findings are in error on more than one point that is essential to its findings. Therefore, Plaintiff seeks relief from judgment as well on the above issues, for the record.

properly because litigation was not "foreseeable". See **Parklane Hosiery Case**. **U.S. Supreme Court: Parklane Hosiery Co. v. Shore, 439 U.S. 322 (1979).** Since the District Court's most recent finding that the June 16, 2004 through July 1, 2004 judgement was not essential to the case controversy, accordingly, we agree that the Anniston, Alabama - June 8, 2004 letter style motion does not merged into any judgment. I will also remind the Court that there was still an ongoing attorney/client relationship from June 8, 2004 until until July 11, 2004; a lawsuit was filed in the named parties of Van Lockwood, Plaintiff V. Jere Beasley, Et Al, Defendants on grounds of detrimental reliance, promissory estoppel, and course of performance seeking an equitable lien and constructive trust thereto Exs. A1, A2, & C1, May 23, 2002 .... and, keep-

ing in mind that there was a client/attorney relationship still in force from June 8, 2004 until June 16, 2004, **and thereafter, until July 1, 2004**, (emphasis added).

It was not the responsibility of the Court to provide alleged final orders to me which is a bright-line rule of fair notification; in which the Courts did not give notice of final orders or a denial notice, neither did Attorney William O'rear or B-A give notification or instructive information thereto 01: CV-1407-UWC. This was deemed to be one of the issues of client/attorney abandonment that many of the Plaintiffs complained of, which does impair substantial due process and lacks in substantial fairness. That would have been overbreadth and too controlling, and would have infringed upon constitutional rights of free speech and freedom of expression, because I should remind the Court that in my legal briefs, I have advanced documents that are essential and central to the case, which proves that the Courts of vicarious Edgar Gentle or the Court's administrator used the term, **"You must cash your $500.00 check to receive potential future payments"** was too controlling and misleading. **Why does Lockwood say this?...Because such statements sounded trustworthy and lead many Plaintiffs, third party standing, to believe to their detriment that the participation was only an act of consummation that if they do not cash their "must" $500.00 checks, they would not be entitled to get any other (their) potential future monies. (See Lockwood's Evid. Ex. A-123;)**

The "must" statement from the Court's administration is also very threatening and too controlling, an infringement upon First Amendment rights that would

have a chilling effect, and would lead Van Lockwood and third party plaintiffs in Anniston, Alabama in this global lawsuit or settlement to their injury, because when you tell Plaintiffs you must do something, i.e., you are giving them legal advice (in which they ought to be able to trust). This is what the District Court and its administration did when they said, "You must cash your $500.00 checks to receive potential future payments", and this also indicates that there is a non-cessation to final payments. It is inherently and fundamentally unfair to Plaintiffs when the Chief Judge U.W. Clemon comes back to a table he has prepared as a trap to injure these Plaintiffs, in an order called **UNDISPUTED FACTS FINDINGS**, *which are clearly a question of fact that is disputed by Van Lockwood V. Jere Beasley, Et Al and it is preserved in the record as DISPUTED FACTS by Van Lockwood. Constitutionally, on third party standing, the rights of Van Lockwood are the rights of others. They are also deemed to be the prudential [shrewd] rights of Plaintiff.* Failure to redress will put Plaintiffs in a zone of danger as well foreseeably by this Court now in control of the res, so said the United States Congress and the United States Supreme Court, Justice Scalia's concurring *zone of interest test* is an element of third party standing. See *Brooks v. Blue Cross and Blue Shield of Florida, Inc.*, 116 F.3d 1364, 1378 (1111, Cir., 1997), the Eleventh Circuit stated that the *zone of interest test* requires courts to examine the "nature and source" of the Plaintiff - Can Plaintiff be harmed? Was there injury in fact? Will redressibility stem from a common occurrence or transaction?

Lockwood's participation was limited only to receiving a $500.00 check, and blood test was not harmful nor a cessation because Ex. A2 & A1 provided

unilateral completion, See: (Cooperation Clause in Ex. A2), by the offeree, **which actually bound the offeror under Rules of Contract Construction, that is to say, the offeree fully and completely performed under unilateral requirements. For example: There were no legal grounds to sue the offeror, Defendants, on $500 gift(s) free to all before causation in fact to injury; blood test results manifested into legal standing (prudential) or redressibility, i.e., was there in fact injury to Plaintiff; and the offeree ripened under Alabama Laws of repudiation stature which is six (6) years, is on written contract. Plaintiff holds the rights to decide on the accruement of an action for six (6) years is Plaintiff's rights. Prior to July 1, 2004, and if any lawsuits or actions or appeals would have been filed it would have been premature or without a cause of actions against Beasley-Allen, herein referred to as B-A, because adequate assurances is always Plaintiff's rights to decide if Defs will pay from July 1, 2004 was the reasonable time allowed. Defs were not responding ...**

In a very wonderful way, exhibits A1 & A2 operate lawfully as a forbearance that should have precluded the Defendants from asserting frivolous defenses like res judica and collateral estoppel, (here) the defs are claiming that the offeree has sued them twice and they want the Courts to transfer them out of troubled waters of the offeree's summary judgment motion July 1, 2004, i.e., back to the Clemon's Court, claiming that the Anniston, Alabama letter of June 8, 2004 and denial of June 16, 2004 merged into the judgment, because Van Lockwood participated in accordance of due performance. See Cooperation Clause, Ex. A2, doc.

1 or when Lockwood endorsed a $500 check where there was no release, and the Defs were not named (unnamed) "under Alabama Law requirement" that the defs be personally named in a release, and a release in Alabama must not be questionable or ambiguous, and it cannot be implied where a writing is paroled (Doc. 9, Ex. E/F, Gentle's Aff.); (Doc. 59, Ex. A, Beasley's Aff.) Defs motion for summary judgment, in which no notary was on file with Probate Court. See Lockwood's Ex. A-121 from Jefferson County, objection to strike entire document because Regions Bank does not give out third party information or nonparty to an account that is under the proprietary control of private, personal, or commercial, and consequently does not name anyone at B-A.

Regions Bank policy would have been authenticated @ doc. 59. Regions Bank business customs are always on their letterhead or would bear some banking institutional(s) markings, such as those submitted by Van Lockwood, the United States of America Pentagon Federal Credit Union, (USPFCU) by the manager with firsthand knowledge of check # 007517, Lori Rawleigh. See doc. 62, Lockwood's Exs. A- 112 / A- 113, enclosed therein Lockwood's Exs.A-1 17 & A-1 18, not limited to dockets 38, 46, 47, 66, 67; see doc. 70 on evidentiary materials which shows how banking institutional(s) markings, letterheads, telephone numbers, fax numbers, and contact persons with personal knowledge are advanced and authenticated , to include Debbie Moore's Aff. @ doc 47, e.g., VL:dm, witnessed testimony thereto Ex. A-1, A-2,& C-2 @ docs. 1, 38, 46, 47, and doc. 67, in which Mr. Albert G. Lyles, Jr. is re-notarizing under seal Debbie Moore's affidavit, thereto the concerns that she is who she says she is and verified the same in Rule 56(e).

The defs motion to strike was improper under Alabama Law. See Lambert v. Bowman-Moore Hat Co., 24 Ala.App. 311, 136 So. 738 (Ala.App.1930), certiorari granted 223 Ala. 1, 136 So. 740, certiorari granted 223 Ala. 1, 136 So. 740, certiorari denied 223 Ala. 420, 136 So. 741, Jere Beasley was required to timely file a counter-affidavit and proving otherwise that the Defs evidences, submissions, or statements are countered with better evidences by showing and proving what part of the affidavit he was striking at, or attempting to replace with better evidence is mandatory, not permissive under Alabama Law and his "mere conjectures", or mere warnings to attack the Plaintiffs affidavit or witnesses is not sufficient evidence, especially when Defs did not timely filed within the Pleading Rules and is inadmissible, and the Defs failure to timely file acounter-affidavit @ doc 1, Plaintiff challenging Pla's Exhibits A1, A2, & C1 @ dockets 62, 47,66, 67, & 70 and Exhibits A-112 & A-113 @doc. 60. [Here] such failure to timely file comes in as an admission to favor Plaintiff is Alabama Law. See Memorandum of Law, Acha Hermanos y Cia v. Rosengrant, 17 Ala.App. 267, 84 So. 399 (Ala.App. 1919), certiorari denied 204 Ala. 85, 85 So. 265. This is a long standing rule under Alabama Law, Title 12-21-111.

Defendants Counsel did not file a counter-affidavit for over a year or more. Debbie Moore's multiple affidavits and personal firsthand knowledge and statements as witness and other witnesses to include doc. 66 were never challenged with counter-affidavits meeting the mandatory requirements. See Lambert v. Bowman-Moore Hat Co., 24 Ala.App. 311, 136 So. 738(Ala.App.1930), certiorari denied 223 Ala. 420, 136

So 741, Alabama Code Title 12-21 -111.When the Def does not meet the legal requirements, the Plaintiff is not required to respond to affidavits filed, however, we have always objected and the Defs are without any witnesses or affidavits thereto Lockwood's exhibits and evidences and witnesses, not limited to Exs. A1, A2,and C1, whereby offeree's witnesses have stated the Plaintiff's intent in verification of the same, holding firsthand and personal knowledge thereto material evidences and undisputed facts.

Sufficiency of Evidence (Alabama Code Title 12)

Since the Defendants do not have any witnesses or any affidavits on file authenticated within Alabama/]Law legal requirements. The Alabama Law states -

> **"The failure of defendant to timely file (a counter-affidavit,i.e., self-authenticating or proving his case, is not admissible). The law further purports the plaintiff's statement is competent evidence of the correctness. See Merchant's Printers, Inc. v. Vulcan Publications, Inc., 597 So.2d 1322 (Ala. 1992). "Mandatory, not permissive".**

William O'rear is the exclusive agent for B-A, e.g., in the law.

- Consensual relationship one person acts on behalf of Principal and is subject to their control, i.e., Jere Beasley, Gregg Allen and David Byrne, III to include Robert Huffaker, an attorney inside B-A Law Firm
- Authority to act only within the scope of

agency authority
- Fiduciary responsibility; trust and confidence, bound to act in each other's interest

Two (2) Types of Authority which Bind the Principal:

1. Actual Authority: Real authority granted by the principal, doesn't matter if 3rd party knows:
    a) Express authority
    b) Implied authority

2. Apparent Authority: 3rd party is reasonable in believing that agent has authority, through the eyes of 3rd party. Conduct of principal would cause a reasonable party to believe agent is authorized by principal.

See: **Monge v. Beebe Rubber Co., 316 A 2d., 549 (1974)**

Holding: Termination by the employer of an at will contract which is motivated by bad faith or malice or based on retaliation is not in the best interest of the economic system of the public good and fiduciary relationship with B-A CONSTITUTES A BREACH OF CONTRACT, APPLIES TO CLIENT/ATTORNEY BAD FAITH BREACH.

Therefore, since the non-judgment June 16, 2004 was moot, not essential to the case, but was misconstrued, the Court and the Court's rush to judgment did not allow Defs to cure or respond to the June 8, 2004 matter. Under Alabama F.R.C.P. ten (10) days is

due to be reversed on error because Lockwood would have prevailed on detrimental reliance, course of performance, and promissory estoppel, (even) absent the offeror's assent, I should prevail on course of performance from March 7, 2002 until July 1, 2004; over two (2) years the offeree has completely performed exhibits A-1 & A-2, which are "inquiry - mere request" between the offeror and offeree, and leaving the offer open on the table is a reasonable person's creed, and a constitutional right to leave an offer open to negotiate, especially when all reserved rights are against these litigations and estopped by parole evidence (extrinsic); when the offeree/offeror indicated the offer was opened, Exhibits A1, A2, & C1 indicates it is leaving the offer opened against the whole potential res(settlement).

The law allows this legal creature, Exs. A1 & A2 and C1, - May 23, 2002 untilAugust 24, 2007 unilaterally upon the inducement of what is actually a forbearance and completed performance by the offeree and defs. Both Parties have formed a quasi and option contract, which does not not need new consideration after offeror, Ex. C1; I object, this is an error of law outside of guidance of the Court's rules, but does in fact induce "detrimental reliance" which is a substitute for consideration, and Defs are estopped from denying what should otherwise produce an injustice. [HERE] the Court must apply rules of "remedy". Defendants and Plaintiff did not need to say anything else on May 23, 2002. O'rear initialed it as final expression, Ex. C1, May 23, 2002. O'rear has "exclusive agency" on behalf of his employer, (David Byme, III), Beasely-Allen to have exclusively entered acceptance thereto, the **only inquiry** before us 3/7/02.March 7, 2002. O'rear is the exclusive agent thereto the offeree exhibits A1, A2, & C1 is the revival thereto my reply and confirmation

May 29, 2002 and Chief Judge U.W. Clemon cannot revoke it with extrinsic and self-serving findings outside of the rules and pleadings, and as amatter of law should be reversed on this 3rd appeal at the Eleventh Circuit on the Footnote one (1) of Judges Black, Marcus, and Fay which has mandated that this District Court did not give any consideration for Van Lockwood's motion for summary judgement, and the offeree, Van Lockwood, contends that this District Court is self-serving and did not like the remand and has no intentions of giving consideration to this Plaintiff or third party standing, and for the record, I object.

Unilaterally, Van Lockwood fulfilled all his obligations by performance. He took a blood test and met all other contractual obligations. He reaffirmed the affirmative defense of detrimental reliance in quasi accord, and a blood test was not foreseeable under the March 7, 2002 Agreement, because it was outside of the scope of the offeror's solicitation and does not come into any diminution scheme. It does not fit unto Judge 1407 Court order and should be transferred back to Case No.: CV-04-BE-1405-E, for summary judgement for Van Lockwood.

Your Honor, under the rules of contract construction, it appears that the District Court has reframed from the rules and most of Alabama Law. This is a misfit of justice. I cannot quit on an unjust misfit. For the record, I object. This is not only Van Lockwood's rights, but "rights for every (third party standing) Plaintiff in this 11th Circuit "region" that includes third party plaintiffs, the people of Anniston, Alabama and global in this non-classaction opportunity settlement. The proposition is for all plaintiffs. You

do not need to give up your rights, and no amount or scheme may be placed on your life blood when its not in your contract - March 7, 2002, Ex. Al & A2 ... to do so anyway in the first place.

Lockwood V. Beasley stands for the proposition that:

"When you are no longer able to carry your money, your money should carry you."

There is a **rebuttable presumption** that holds true (B.A.), that if a **Party** learns of their injury, they should have autonomy to sway within contained rights that are **reserved**, i.e., to negotiate on what has become **an equitable lien** on property and a constructive **trust** on monies, to include the interest growth **or** improvements from the date the unjust enrichment **occurred** wantonly and willfully against a forbearance with a **reckless disregard** of said reserved rights thereto **bad faith**, attorney/client and the humiliations and indignities suffered for nearly **five (5)years** are good grounds for presumptive damages to **deter this kind** of torts from happening in the future against plaintiffs in third party standing. The Defs have a **high degree** of substantial certainty that they have committed **torts** under **Garrat V. Dailey, 46, Wash., 2d., 197, 279 P. 2d.1091, (1955), case was remanded to favor plaintiff by the Supreme Court.** The Courts **held that** even a five year-old is **held liable** for their torts. This is when **five year old Dailey** pulled a chair out **from** under Ms. Naomi Garrett as she was **about** to sit, causing her to fall and **injure** herself in the process. The Courts held for the **Plaintiff** that consciousness and knowledge imputes **liability** to even a five year-old, so there is a **clear presumption** that attorneys are held to the **highest**

trust and standards in any fiduciary relationships. The Defs are deemed to be coupled with a higher level of consciousness and knowledge/awareness than that of a five year-old.

The revival action of the offeror May 23, 2002, Ex. C1 is lawful, but option contract can be open forever.... by William G. O'rear. Jr. (WGOjr/dep) initials and longhand is all that the contract expressly calls for on March 7, 2002 to accept modification between offeree and offeror. O'rear has brought to life consent and revival by re-evaluation May 23, 2002, Lockwood's Ex. C1. Exhibit A2 prohibits offeror's O'rear, Jr., on the C.R.O.C. (Contract Rule of Constructions), i.e., from arbitrarily cancelling or withdrawing the offer after acceptance March 7, 2002 by the offeree indicating reserving rights for the said stated reasons. See: ***TERMINATION CLAUSE*** Lockwood's/O'rear's Ex. A-2, paragraph four (4), lines 4 and 5.[HERE] the offeror on line 4 advances a "nullity" in Ex. B 1; response he revives under the sum of a promise modifier in Ex. C1. "If" B-A does not determine prosecution of a claim, it is (inference) practicable. It may not withdraw at any time. There were no prosecutorial reasons to cancel or withdraw, determined in Exhibit B1 or Exhibit C1 consideration, that would have allowed the offeror to revoke the offer on the final expression May 23, 2002. Yet, Attorney William G. O'rear revived it.

[HERE] I also find offeree had a cause of action in Exhibit B 1, because Defs were bound on March 7, 2002. The offeror must have revoked prior to or before March 7, 2002 acceptance. Acceptance indicated by the offeree in Ex. A1 & A2, thereto Ex. C1 in which the offeror's only inquest was to initial and longhand in Ex.

C1 is the modification only method of acceptance by confirmation here again was on May 29, 2002 between offeror and offeree, inwhich offeree replied and stated, I accept. Even, if Ex. B1 was found to be prosecutory based on civil, criminal, or fraud by the offeror. July 1, 2004, first lawsuit filed gave Defs opportunity for five (5) years and seven (7) months on a course of performance to bring an answer. This is our 3rd time going to the Eleventh Circuit - Lockwood V. Beasley, (2006, 11th Cir.).

Expressly, Defs have not filed a timely Court affidavit within the (Alabama Rules of Civil Procedure); Alabama Code, Title 12 to prove its case against the Plaintiff is mandatory(Alabama Law) not permissive to gain Rule 56(e) Summary Judgment consideration. [There] is a "miscarriage of justice". No responsive affirmative defenses were advanced by Defs in **Celotex V.Catratt, 477 U.S. 317 (1986)**, "where the Court rejects the notion that the moving party must always support the motion with affidavit showing the absence of a genuine dispute over material fact: where a party has the burden of proof (Defs) on an essential element (Exs. A1, A2, & C1) and failed to make a sufficient showing to establish that element after an adequate time for discovery (Defs never filed an answer). There is no genuine dispute over material facts and the other party (offeree) maybe entitled to[2] summary judgement without a further factual showing (in Lockwood's Ex. C1, Doc.1 evid.) See the companion cases to **Celotex;**

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[2]**See Lockwood V. Beasley, (Dec. 20,2006, 11th Cir.) advancing that the District Court did not ever give any consideration to any of Lockwood's (Offeree's) Motion For Summary Judgement.**

Matsushita Electrical Indus. Co. V. Zenith Radio Corp., 475 U.S. 574 (1986) and Anderson V. Liberty Lobby, Inc., 477 U.S. 242 (1986), and Moore V. State of Florida (11th Cir.)"

The Defs has 20 days, July 1, 2004, summons and complaints facing Defs for the 1st time (Seventh Amendment Rights) executed on B-A Defendant-Attorney, William G. O'rear, July 3, 2004 @ dockets 5 and 6, 20 days, estimated from July 3, 2004 until July 23, 2004. Defs were required to bring a timely answer annotated to the Plaintiff's pleadings; the defs never said a mumbling word, thereto, these depositives of offerce and the legal proceedings; their motion was entirely based on the Anniston, Alabama Hearing Response "notice" June 8, 2004 stating they had been sued twice on the merits by the offeree. The District Court found their pleadingto be frivolous, even though it did not state it. The Court did not find res judica or collateral estoppel on the offeror only defense advanced July 1, 2004 to be on the merits. The Court stated that its judgment thereto was not essential to the controversy of the case and a cause of action by the offeree. Lockwood was proper,but yet the District Court did not follow Rules of Remedies and Contract Construction, in which the Defs were well aware of when they failed to file an answer within 20 days of **Moore V. State of Florida, (11th Cir.)**, where there is a clear showing that assent to modification, the only method required was initials only. The evidence Exs. A1, A2, & C1 enjoined both Parties, accordingly, not limited to the offeree having "remedies" on course of performance, thereafter, offeree completed performance and ripened into a cause of action as purported by the District Court that Lockwood **"maintained"** a cause of action against William G. O'rear, Et Al Defendants.

Accordingly, the requisite of revival of Ex. Al & A2 (requested) which was an inquiry that was deemed to be under [his] advisement March 7, 2002 sent certified mail. On May 23, 2002, O'rear is giving assent to Ex. A1 & A2 by re-evaluation. O'rear's acknowledgement of it leaves no other issues, only offeror may revive an offer is what I believe the Eleventh Circuit Judges saw that the offer was kept opened. But, keep in mind that "once" the offeree is induced into performance or detrimental reliance, "no revocation", better yet, once the offeree induced complete performance, the offeror may not (motion) withdrawal, i.e., motions to transfer and consolidate doc. 9 because the contract is unilateral and the offeree (See: Restatement 45 Contract Starting Performance) gave sufficient notice from March 7, 2002 until July 1, 2004 (suit) in the Judge Bowdre's Court (1:04-CV- 1 405-KOB).[3]

The June 8, 2004 - June 16, 2004 letter was only a second warning, not a lawsuit, and should never have been stamped "denied" (Fairness Meeting), but was intended to be (on record) notification that the Defs are not responding to a potential lawsuit, whereby Defs had time from June 8, 2004 until July 1, 2004 to "cure" and to re-evaluate their acceptance by their employee. Defendants never filed an answer nearly five (5) years, the complaint was amended by Plaintiff as well; (individually) under the Uniform Partnership Act (U.P.A.), even so, we find David Byrne, III, Plaintiff Ex. A-3 is at the top of Beasley-Allen letter, May 23, 2002. The District Court's "undisputed fact" is thereby

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[3]**Even though Plaintiff set forth a prayer of relief, See: Wright & Miller, Federal Practices and Procedures and Alabama Law, which are not claims for Res Judica and are not considered as a complaint. See Memorandum of Law.**

"disputed" because the Court findings are in error, without merits of law, when it advanced its purported proposal that David Byrne, III, (see Ex. A-3) was not a responsible recipient. The Court rules states that "offers are effective when received" by their apparent authority or B-A Law Firm.

I object in all of law, we say, David Byrne, III., has apparent authority and inherent rights to be bound with his (employee) or representative agent's actions, [HERE] Attorney William G. O'rear, Jr., (WGOjr/dep) on company letterhead, -- May 23, 2002, under Rules of Contract Construction William G. O'rear, Jr., is a proper party in his "hired" inherent position to make decisions without someone holding (O'rear's) hand; as the Judge Clemon's Court suggested findings vicariously O'rear is standing in the position as offeror on behalf of his employer B-A or former partnership under the Uniform Partnership Act (U.P.A.) Rules. O'rear has bound his "employer" (B-A) by assent and non-extrinsic "revivification" of March 7, 2002 to May 23, 2002. [HERE] there's nothing else he could have advanced that would keep or precluded him by reason of his notification to have responded.

The District Court's prejudice is "formed on guesswork" is conclusory and absent of guidance Rules of the Court, i.e., to follow Rules of Contract when inquiry leaves the offer open. The Defs in a rush to judgment relied on their motions to transfer and dismiss for res judica, which was only dilatory to prohibit and offset judgment. Even after remand, Defs maintained this defense, and it would be an error for the Court to follow them or to testify on behalf of Beasley-Allen or (their) employee, William G. O'rear, when the Court lacks firsthand and personal knowledge in their

behalf, for this would be unconstitutional and offend the United States contract clause, which states in its motion that parties have a right to make contract anyway they would like, except for criminal prosecutions, i.e., illegal reasons. This District Court should not abridge rights between offeror and the offeree when such rights indicate that all rights are reserved; such action sets forth an inference that the offeror has fair notice that he is not dealing with an illusory or frivolous claim, when the Plaintiff is foreseeable at the time of contracting. I object, and I dispute the Court's findings as an error that must be reversed for this Plaintiff and third party standing. For these are the rights of others in which I defend thereto my own rights in Thornhill V. Alabama, supra ., for this District Court to cutoff these rights would mean that future plaintiffs have no rights to negotiate in any instance.

This Court is saying that the **offeror** may revoke his offer after the **offeree** accepts or gives assent, or that the offeror has no revival rights even where the offer was never dead but was contingent upon unilateral performance, thereafter May 23, 2002 "would not" have required Van Lockwood to contact attorneys Cherry, Beasley, Allen, or David Byrne, Ill., et al to find out if William G. O'rear, Jr., had exclusive agency rights. This is not a legal requirement within the agreements of Ex. A 1, A2, or C 1, and the Court's findings would be outside the scope of the offeror's solicitation to the general public, and is not within any foreseeable scope or affirmative obligation of the **offeree**. My 28 years experience in contract enforcement does not require me or any third party standing plaintiffs to bother or contact Attorney(s) Cherry, Beasley, Allen, or David Byrne, III., et al. If this was an enforceable duty of the offeree, there is a strong possibility

that I would have sent the agreements to all of these attorneys, and there is a clear presumption, that under a consensual relationship, they would have given the agreements March 7, 2002 to William G. O'rear, Jr., anyway, and there's no way for this District Court to know that William G. O'rear, Jr., did not get the consent of B-A, his bosses, a/k/a his principle.

It is not the legal requirement of the solicitation and I am rejecting the Court's findings, which were not reasonable and would be a fanciful and unusual requirement, and not within the scope of Ex. A2, Cooperation Clause, and excludes the District Court's findings, August 31, 2007. These findings by the Court would be out of order and extrinsic to the Parties' desire and intent, in which the Court has excluded the Plaintiff's testimony and all the Plaintiff's witnesses in every instance, and has not given consideration for substantive due process of Plaintiff and third party standing, i.e., the Constitution guarantees that no person shall be arbitrarily deprived of their rights, which is protected from arbitrary and unreasonable actions.

Since the Defs never filed [a] responsive answer in **five (5) years and seven (7) months, neither** denying nor challenging the Plaintiff s evidences or exhibits A1, A2, and C1 it comes in as an admission against the offeror by assent, course of performance, detrimental reliance, and promissory estoppel is PREMISED BY NOTICE OF A LIEN, WHICH HAS BECOME AN EQUITABLE LIEN AND CONSTRUCTIVE TRUST BASED ON A FORBEARANCE THAT PLACES A LIEN AGAINST THE WHOLE POTENTIAL RES, IN WHICH THE DEFENDANTS WERE REQUIRED TO NEGOTIATE AND (REACH A PERCENTAGE), AND THIS NEXT SYMBOL THAT YOU

WILL FIND IN EXHIBIT A-1 IN PARENTHESIS (%), YOU WILL FIND A PARENTHESIS SYMBOL THAT LOOKS LIKE THIS (%). IT DOES NOT MAKE AN OFFER, BUT ITS INQUEST INDICATES THAT IT IS LEAVING THE OFFER OPEN ON RIGHTS RESERVED AGAINST THE POTENTIAL RES.

IT ALSO TELLS THE OFFEROR HOW HE WILL BE DISCHARGED AND STATES, *I MUST FIRST RECOVER BEFORE ANY SUBSEQUENT LIEN IS HAD OR REALIZED,* AND CAN ONLY BE CONSTRUED AS A FORBEARANCE FOR CONSIDERATION. WHEN WE APPLY THE RULES OF CONTRACT CONSTRUCTION, THE INQUEST OR INQUIRY SUPPORTS THE LEGAL AND SINCERE NOTION THAT IT IS UNDER AND BEFORE THE OFFEROR AND OFFEREE "UNDER ADVISEMENT" WHICH IS CONTINGENT UPON A CREATURE CALLED EXHIBIT C-1. HIS INITIALS AND CREDENTIALS (REQUIREMENTS) ARE IN EVIDENCE, AND HE IS DEEMED TO BE WITHIN THE QUALIFICATION OF AUTHORITY; THIS TESTIMONIAL IS WHAT THE ELEVENTH CIRCUIT JUDGE SAW AT THE RES OF THEIR FOOTNOTE I IN LOCKWOOD V. BEASLEY DECISION (11th CIR., DEC. 20,2006), AND IN O'REAR'S LONGHAND, IN WHICH HE SIGNED AND INITIALED AND ENTERED INTO AN IRREVOCABLE AGREEMENT ON MAY 23,2002. ON MAY 29, 2002, WE HAVE IN EVIDENCE AN ACCORD RECONFIRMATION *"WHICH IS AN EXECUTORY CONSIDERATION" FOR THE RECORD AND EXPRESSED CONTRACT WAS FORMED 5/29/02, EX C-1, BEARING BOTH PARTIES' INTITIALS. SEE EXIHBIT C-1. ACCORDINGLY AND IN AGREEMENT,* WHEREBY THE OFFEREE UNILATERALLY WAS INDUCED INTO

FULLY COMPLETED PERFORMANCE, AND IN WHICH REVOCATION BY ATTORNEY ROBERT HUFFAKER IS OUTSIDE OF THE PLEADINGS, AND DEFENDANT'S RESPONSES ARE NOT/WERE NOT *"EVER"* ANNOTATED AS RESPONSIVE TO ANY OF THE PLANTIFF'S COMPLAINTS, DEPOSITIVES OR MOTIONS FOR SUMMARY JUDGEMENT on a lien and or equitable lien and constructive trust under Alabama Law. On the other hand, under Rule 56(e), doc. 47, the Plaintiff has a witness with firsthand and personal knowledge; Debbie Moore's affidavit, doc. 47 a/k/a doc. 67 advances proper supporting testimony and verification of material facts, and doc. 67 verifies she is who she says she is by the notary, Mr. Albert G. Lyles, Jr., doc. 47 exhibits page 16-A of C, page 16-B of C, and page 16-C of C qualifies in *Celotex Corp. V. Catratt* supra where affidavits are not necessarily required, therefore the District Court is outside of the scope of the March 7, 2002 agreements to say Lockwood needed some other "new method" to reach new consideration or that Van Lockwood needed to remind the offeror in Ex. C- 1 that the inquiry under his "advisement" has bound him; such action would be imprudent and non-judicious since the power of acceptance was created by the offeree in the first place, thereto Exs. A1 & A2, March 7, 2002, accordingly to Lockwood and O'rear.

Lockwood did not need to do anything else and it would be imprudent to not leave the offer open for settlement negotiations on the inquest. Here again, there was nothing else for Van Lockwood to do after March 7, 2002 inquest or the May 23, 2002 acceptance of it. Also, reminding this Court that after a course of performance, the June 8, 2004 gave Defs an opportunity as a reminder to negotiate. Any fair minded person

could have concluded that William G. O'rear, Jr., if he was in fact looking for a different result, could have sent out **"a new PCB Agreement" on May 23, 2002, but he did not**, and "we must be true to ourselves" to be true to others. We know WGO (O'rear) is accepting the terms of the March 7, 2002 requested attached, which is not illusory and it is not a frivolous claim and the Def knowing such circumstances avails himself of the benefit of those agreements which legitimately can be inferred from intentions of Parties as evidenced by circumstances and course of performance, which does not extinguish a claim, but raises obligations in law as quasi contract. See *quasi contract* which is invoked by the Court where there is unjust enrichment.

Accordingly, the Parties have assented to the term negotiate has fully performed. See Restatements of Contract 45 of Contracts. We have an admission from O'rear that he is continuing performance, that is also an inducement in the offeree completed performance. Negotiations are open to all the world, reserved rights is the option of the contracting Parties ,that is to say that something with a potential duration, e.g., settlement or some res becomes executory and is contingent upon a lien and res happening in the future, and in this "instance" *course of performance* is lawfully correct. It would be an error of the Court and injustice to not enforce the contract or to not to apply remedies, or for the Court to go outside of the Court's rules and say in effect that even revival of the offeror's actions needs new consideration, when the offeree in the first place manifested and indicated that the offer remained open. There can be no revocation by the offeror <u>for the record</u> once the offeree has accepted. Also I should remind the Court, this also holds true once the offeree has fully performed unilaterally with WGO (William G.

O'rear). The offeror may not revoke unilateral performance thereto the transfer motion dismissal with prejudice remanded, and thereafter, Defs, the offeror, is not entitled to summary judgment and is due to be denied for the record, I object. The Defs never filed an answer and never denied their assent to Exs. A1, A2, & C1 as a final expression thereto a valid enforceable contract.

SEE MISCELLANEOUS: Plaintiff's Ex. A2. The agreement opened the door by stating it needed to be initialed only by both Parties, to "modify", and opened the door by stating and inviting the only required modification method for its acceptance (requirements) is by initials (only) "period", and does not state other obligations on offeree or offeror or "any other method to assent to acceptance is needed," However, it is contingent upon Ex. C1, and reconfirmation foreclosed the issue, if any, on the May 29, 2002 reply acceptance by Dr. Van Lockwood, and was done so on reevaluation May 23, 2002 reply thereto March 7, 2002, Exs. A1 & A2, acceptance is consideration. The offeror may not revoke after acceptance by the offeree. The Court errs when it thinks otherwise, but even if the Court was correct, the Plaintiff still would have provided on detrimental reliance, a substitute for consideration. Keeping in mind Rules of Contract Construction, there is a remedy in quasi accord and course of performance once the offeree, after nearly five (5) years later, has completed performance on detrimental reliance and the offeror, O'rear. [HERE] the offeror has ***not*** completed its performance in Exs. A1 & A2. A contract may not be revoked on unilateral completed agreements by the offeree.[3] No new consideration is needed when an option contract was formed and detrimental reliance, because as a substitute for

consideration, if it was determined, a contract is implied in law, and the Court must have looked to the "condition" subsequent for Defs to prove they performed on open reliance accord. Defs are (unnamed), i.e., not named, in a release. As we know, under Alabama Law requirements, a release may not be had when a Party reserve all rights is deemed to be a Bar against these proceedings, and as well must be with a "release" or liability as between offeror and offeree. (Unnamed persons are not deemed to be potentially released from liability (B-A)). No release is before the Court and are deemed without merits under Alabama Law when (unnamed).

The Defs are not the intended beneficiary of any rights to a release, therefore, let the Court find truth that Defs have not performed and they are not released for the record, and Defs are not without proving a condition subsequent, i.e., showing that they have perfectly or fully performed their duty absent proof or cure.

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[3] No new consideration is needed on assent and implied contracts over a course of performance and do not need new words when the offer was reserved and held open and the offeree performed in concert with the offeror; it make no sense in law whether his employer knows of it... The Court is implying ... Jere Beasley, Gregg Allen, David Byrne, III, were not there to hold Attorney William G. O'rear's hand. That's "frivolous."

Plaintiff

Lockwood's

SUPPORTING DOCUMENTS

Evidence - Affidavits

1.....EX A-121 2 pages
2.....EX A-122 5 pages
3.....EX A-123 4 pages
4.....EX A-124 8 pages
5.....EX A-125 2 pages
6.....EX A-126 7 pages
7.....EX A-127 5 pages

Def. doc 59
Lockwood Ex. A-121
Evid. 1 of 2 pages

PROBATE COURT OF JEFFERSON COUNTY
716 RICHARD ARRINGTON. JR- BLVD. N.;
BIRMINGHAM ALABAMA 35203

ALAN L. KING, JUDGE
325-5203

SHERRI C. FRIDAY, JUDGE
325-5426

SEPTEMBER 6, 2007

CYNTHIA VINES BUTLER
DEPUTY PROBATE JUDGE
BESSEMER DIVISION 481-4100

CHIEF CLERK
BIRMINGHAM DIVISION
325-5420

TO WHOM IT MAY CONCERN:

This is to verify that upon researching our records that no notary commission in the name of W S BEASLEY or WILLIAM S BEASLEY. We furthermore verify that the legibility of the signature is questionable. Therefore we cannot certify the record further.

NOTARY CLERK

SUPERVISOR

Def. doc 59
Lockwood Ex. A-121
Evid. 2 of 2 pages

Envelope submitted with return address in upper left hand corner:

AFTER FIVE DAYS RETURN TO
Judge of Probate
Jefferson County
Birmingham, Alabama 35203

CERTIFICATE OF SERVICES

A true copy was placed in the United States Mail System on this 1 day of Oct., 2007 to the Defendants, Robert Huffaker.

Dr. Van Lockwood

DR. VAN LOCKWOOD,
DOCTOR OF LAWS/JURISPRUDENCE
THE PLAINTIFF

APPENDIX J
LOCKWOOD'S EVID. EXHIBIT A[1]
Page 1 of 3

CERTIFIED MAIL: 7001 0320 0002 9797 7886

226 Westlake Cir.
Bessemer, AL 35020
March 7, 2002

BA, CCGS and BF
Attorneys at Law
Post Office Box 4160
Montgomery, AL 361034160

RE: Request Attached

Please see enclosed the original PCB agreement, however; I am reserving my rights on this *agreement to negotiate the lien. The percentage (%) is too high. I must first recover before any subsequent lien is had or realized.

Thank you.

Sincerely,

Van Lockwood

Van Lockwood

VL: dm
Enclosure

LOCKWOOD'S EVID. EXHIBIT A[2]
Page 2 of 3

PCB FEE AGREEMENT

BEASLEY- ALLEN
200 Coosa Street
Montgomery, AL
36104
334-269-2343
1-800-898-2034
www.beasleyallen.com

CASE TYPE: PCB
Monsanto/Solutia

If no recovery (by settlement or trial) is obtained, client will not owe a legal fee or expenses.

CLIENT Van Lockwood AGE 43

PARENT/REPRESENTATIVE SAME

STREET ADDRESS 226 Westlake Circle W.

CITY, STATE, ZIP Bessemer AL 35020

PHONE: Home: 205-425-1241

PHONE: Work/Cell/Pager: SAME self-employed.

In case of emergency, contact: same Phone:

Injured person is: [Lockwood's EXHIBIT A[2]]

LOCKWOOD'S EVID. EXHIBIT A[2] (Cont.)

LEGAL REPRESENTATION. Client hires Beasley Allen; Cochran, Cherry, Givens & Smith; and, Burr & Forman ("BA", "CCGS" and "BF") to pursue a potential claim for injuries and damages related thereto, including property damage, possibly caused by exposure to PCBs. Client authorizes BA, CCGS and BF to pursue available sources of recovery as BA, CCGS and BF deem necessary. Client agrees that BA, CCGS and BF may associate additional lawyers/firms to assist with this case and Client agrees to the sharing of fees between lawyers. Client understands the terms herein apply to other lawyers associated on this case and that association of other lawyers or law firms does not increase the amount of the attorney fee due to lawyers on successful resolution of the claim.

COOPERATION. Client agrees to be available for consultation, investigation, deposition, trial preparation, and do necessary work as BA, CCGS and BF direct and do nothing to impair the value of the case. BA, CCGS and BF agree to use their best effort and skill in pursuing the case but do not guarantee a specific result. Client appoints BA, CCGS and BF as his/her attorneys in fact to present claims and/or endorse checks or drafts representing settlement or judgment proceeds to expedite disbursement.

45% LEGAL FEE. If no recovery (by settlement or trial) is obtained, client will not owe a legal fee or expenses. If BA, CCGS and obtain settlement for Client, Client will pay to BA, CCGS and BF fortyfive percent (45%) of the total recovery less expenses

CASE EXPENSES & AUTHORIZATION. BA, CCGS and BF will not ask Client for expense money during the handling of the case. Case costs and expenses will

LOCKWOOD'S EVID. EXHIBIT A² (Cont.)

be advanced by BA, CCGS and BF. Examples of typical expenses include court filing fees, investigation, mileage, photocopies, court reporters, medical records, interest on any money BA, CCGS and BF borrow for expenses, expert witness fees, fare, etc. If a recovery is obtained, Client will reimburse BA, CCGS and BF for these expenses from Client's share of the total recovery.

TERMINATION OF THIS AGREEMENT. If this agreement is terminated before the case is resolved, Client gives BA, CCGS and BF a against any subsequent recovery in this case for BA, CCGS and BF's time and expenses. If an offer has been negotiated, BA, CCGS and will have a lien upon any subsequent recovery equal to 45% of the offer, or an amount to compensate for time and expenses, whichever is greater. BA, CCGS and BF may withdraw from representation of Client at any time if they determine prosecution of the claim is practicable.

MISCELLANEOUS. Client has read this agreement (or has had it read to him/her) and agrees to be bound by these terms. Any modification to the terms of this agreement shall be typewritten or handwritten in the margin below and initialed by both parties.

* B-A CCGSa (request) (Client) must first recover before subsequent lien in hand. NCf.

x Van Lockwood
CLIENT or CLIENT'S REPRESENTATIVE
Date: March 7, 02

Van Lockwood Date: March 7, 02
AGREEMENT ACCEPTED BY

LOCKWOOD'S EVID. EXHIBIT B[1]

Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.

Attorneys at Law
POST OFFICE BOX 4160
MONTGOMERY, ALABAMA
36103-4160
(334) 269-2343

TOLL FREE
(800) 898-2034

TELECOPIER
(334) 954-7SSS

WEB PAGE
www.beasleyallen.com

April 23, 2002

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Van Lockwood
226 Westlake Circle W.
Bessemer, AL 35020

Re: Potential PCB Claim against Monsanto

Dear Mr. Lockwood:

Thank you for contacting our firm regarding your possible PCB claim against Monsanto. We regret to inform you that we are unable to assist you in this matter and have closed our file. This letter is not intended to give you the impression that we believe you

LOCKWOOD'S EVID. EXHIBIT B²

have a bad case or that it lacks merit. Consequently, it is important that you contact another attorney immediately if you intend to pursue this matter.

Be advised that there is a statute of limitations applicable to your case. Therefore, you must take action on your claims within the period prescribed by the statute of limitations. If you fail to take action within that period you may be forever barred thereafter from bringing any legal action based on these facts.

Again, thank you for allowing our firm to review this matter. We appreciate your interest in our law firm.

Very truly yours,

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.

WILLIAM G. O'REAR, JR.

WGOjr/dep

LOCKWOOD'S EVID. EXHIBIT C[1]
Pg 1 of 2

Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.

Attorneys at Law
POST OFFICE BOX 4160
MONTGOMERY, ALABAMA
36103-4160
(334) 269-2343

TOLL FREE
(800) 898-2034

TELECOPIER
(334) 954-7SSS

WWW.BEASLEYALLEN.COM

May 23, 2002

Mr. Van Lockwood
226 Westlake Circle W.
Bessemer, AL 35020

Re: **Tolbert, et al. v. Monsanto, et al.**
(Civil Action No.: CV-01-C-1407-W)

Dear Mr. Lockwood:

You recently received a letter from our firm stating that we had decided not to handle your potential claims. We have re-evaluated your file and have determined that your claims can be pursued by our office. We will continue to represent you and assist you with your potential PCB related claims.

LOCKWOOD'S EVID. EXHIBIT C[1]
Pg 1 of 2

Please notify me in writing right away if you do not wish for our firm to continue working with you on your potential PCB related claims. If you have any questions or comments regarding your claims, please feel free to contact me at the above number at any time.

Very truly yours,

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.

WILLIAM G. O'REAR, JR.

WGOjr/dep

Reply:
From: Dr. Van Lockwood
Please persue this claim I accept
Thanks
Sincerely,
Dr Van Lockwood
Faxed 5/29/02

LOCKWOOD'S EVID. EXHIBIT C²
ENVELOPE
Pg 2 of 2

APPENDIX K
Appellant's Exhibit
Moore's Affidavit Ex D-1

AFFIDAVIT

I, Debbie Moore ,

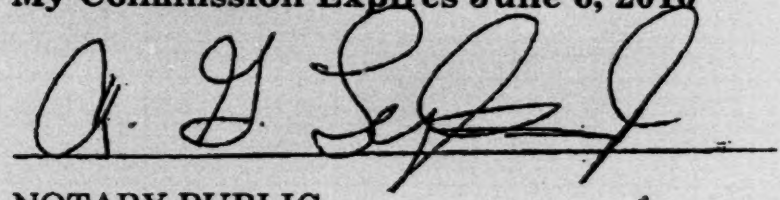
Debbie Moore hereby give a sworn oath statement under penalty of perjury in the followings:

I, Debbie Moore am 52 years of age and of sound mind, hereby attest as witness this 19th day of October, 2007. I, Debbie Moore, having firsthand and personal knowledge, hereby attest and verified that on October 1, 2007, I witness and personally saw Van Lockwood filed a Notice of Appeal and attached an Appealable Order dated August 31, 2007 signed by Judge U.W. Clemon. He also filed a Motion For Reconsideration consisting of 82-pages on October 1, 2007. He also paid $455.00 with a check #831. Mr Lockwood was given a receipt for the check: he filed his copy into U.S. District Court and he then had his copy stamped by that clerk. Record correction was filed today in this Motion.

I witness the voice of Sonja Jenkins October 2, 2007 on cassette tape stating that she has these documents and the fees. She identified herself as Sonja Jenkins, District Court of Alabama. She gave her telephone number/extension. She stated that she was calling from U.S. Courthouse and that she was the clerk for Judge U.W. Clemon.

Appearing before me, Debbie Moore (Georgia DL)
and _____ this 19 day Oct. 2007.

County of Jefferson
State of Alabama
My Commission Expires June 6, 2010



NOTARY PUBLIC

APPENDIX K
Appellant's Exhibit
Moore's Affidavit Ex 1 of 2

Reaffirming Affidavit

I, Debbie Moore, do hereby reaffirm the October 19, 2007 affidavit is in my longhand signed by me and notarized, and I hereby reaffirm each paragraph and statement to be true statements that are correct to include the followings in this affidavit, May 8, 2008.

I am a sound mind and over the age of 18. I have verified and will certify as witness

1. On or about April 24, 2008 that Sonja Jenkins called and left a message on Mr. Lockwood's answering machine that the (missing) documents tape cassette, i.e., that she had sent "them" to the Eleventh Court of Appeals.....Atlanta, Georgia. She identified herself as deputy clerk to Judge U.W. Clemons, etc....
2. This is the same voice and [I] identify that expressly stated the location as U.S. Courthouse, Birmingham, Alabama on October 2, 2007 giving her telephone #1 extension.
3. On or about May 1, 2008, I apprehended and hereby certify and have witnessed and estimated Post Stick-It pad sheets, yellow 2x2 papers which disclosed information based upon their beliefs and personal knowledge that I should not say more because the yellow stickers holds a negative comment about their Judge Clemon, in which I will not comment because the yellow stick-it sheets represent secrecy; are intended

give hints that it is deemed to be Sonja Jenkins writings (or a follow-up response from her April 24, 2008 telephone call) to Mr. Lockwood, Appellant. She appears to be placing the blaim on the Judge about the October 1, 2007 filings being in his hands and control to which I will not comment on the materials of the case.

4. My affidavit is only intended to verify without speculation as to what I saw, witnessed, and heard, e.g., the Notice of Appeal and Lockwood's 8/31/07 Court order filed together. I can testify to this as witness becuse I was there. Mr. Lockwood and I thought it was very interesting that his check # was "831" and the Court Order was "8/31", which was a mentionable subject that it worked out that way was a conversation piece in its timely manner when it was filed and consolidated to his Notice of Appeal as one filing.

NOTARY

Debbie Moore Here appears before me, in sworn aff.

Fulton County, State of Georgia
Date: May 8, 2008

Notary Public, Fulton County Georgia
My Commission Expires March 11, 2011

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

AFFIDAVIT IN SUPPORT OF MOTION FOR JUDGEMENT AS A MATTER OF LAW

INFRA. @ PAGE 16 OF 50, JMOL FILED - 4/19/06

I, Debbie Moore, having first-hand knowledge in certified affidavit sworn oath to the best of my knowledge and ability made front/back copies of check number: 007517, (Pg. 32 of 50) and (Pg. 33 of 50). Back of check (Pg. 33 of 50). These are also in court documents, (Pg. 65-66), (Eleventh Circuit) submission.

(1) Front of check bottom, left-handed comer, you will see:MEMO: Advance Payment "Only" it does not say, Final Payment for Settlement.

(2) On back of check, you will see (NOTHING) Check Number: 007 517.

(3) As customs, I make copies of front/back of check in question for settlement.

(4) See also check number: 021656, (Pg. 44 of 50). Now, this check does say its [intent], lower (left-handed)comer. MEMO: It operates as the [first] attempeted on personal injury. It reads in the memo: Personal Injury Check, (See back of check).

On the back of check number: 021656..... the one that reads "Personal Injury Check" up front, a release attempt was rejected, (Pg. 44 of 50). Now, this attempt which is not like (Doc. # 9, O'rear's exs. e/f, Gentle aff.) where is nothing there.... in plain view in Ex. E lacks **accurately** reproduces not the original, Fed. R. Evid. 1001 (4). Supra.N.W. Enter., Inc. V. City of Houston, (Fifth Circuit.).

For the record, Your Honor, Edgar Gentle's Ex. F affidavit is not true. His intentions may be good attempt support for Beasley-Allen Law Firm, when they had their secret talks absent Mr. Lockwood's accord to get Exs. E/F, but he is showing us nothing that was read or could be read by a reasonable person standards.

Mr. Lockwood has not discharge his attorneys is what I am supporting in this affidavit; and, because he expressly told me and his attorneys as to how they would be discharge - March 7, 2002 - May 29, 2002 @ (Doc. # 1, Exs. Al & A2) witnessed by VL/dm - 3/7/02.

Terms of the agreement in my opinion are like a "precatory trust", or ,"trust", "having fullest confidence" has been met with a breach of trust, [A] lawfully committed still under contract are his attorneys in a fiduciary character of exchanges and [ATTEMPTS] to abandon Mr. Lockwood is now four (4) years long in waiting.

It will take the power of your court to order them to pay Mr. Lockwood's (request). The defendants' have no legal excuse, they are under accord without satisfaction.

I have seen Mr. Lockwood's Exs. Al, A2 & C1. I saw Mr. Lockwood signed the contract accord to the above exhibits; this is the signature of Van Lockwood in Exs. A1 & A2, and Ex. A3 - certified mail sent March 11, 2002 was received by the defendants' attorney - March 13, 2002, postage prepaid copy of receipt attached, (Lockwood's Doc.#1) attached.

I, hereby, declare under the penalties of perjury that the facts stated in this affidavit are personally known to me and are in customs and to the best of my adequacy, and they a are true.

Debbie Moore Debbie Moore

STATE OF ALABAMA
County of Jefferson

Signed and sworn to be before me on April 19, 2006

A. G. Sg

NOTARY PUBLIC

MY COMMISSION EXPIRED ON My Commission Expires March 23, 2006

Note: 28 USC Section 1746 Setforth a procedure for making and using declaration under penalty of perjury which can be used for witness affidavits.

PG. 7 OF DEBBIE MOORE'S AFFIDAVIT, TOTAL PGS. FILED 7,

AFFIDAVIT

I, Albert G. Lyles Jr. d/b/a Aldo & Associates; I reside in Fairfield, Alabama hereby give a sworn oath statement under penalty of perjury in the followings:

1. I re-certified and re-notarized Debbie Moore's affidavit on April 27, 2007 after I attached the following statement to the enclosed exhibit marked as Exhibit page 16 of 50, Pages 16-A, 16-B, and 16-C. On April 27, 2007, I attached an affidavit of verification in care of Debbie Moore;

2. Which I am verifying the facts of my personal knowledge, since I am the notary she appeared before in good faith on April 19, 2006 seeking a sworn affidavit of her personal statement.

3. Van Lockwood and my wife witnessed these signings. There was no scheme to rip them off for a few dollars. My signature on the affidavit of verification was to advance my personal knowledge, but more importantly I am adopting the responsibility by date/time. My commission expires June 6, 2010. The affidavit of verification for its use is deemed to recertify retroactively on April 27, 2007 and correct any mishap have been corrected.

4. Please find enclosed my copy of records as custodian of records that I notarized and corrected on April 27, 2007. It consists of three (3) pages, page 16-C was re-notarized and corrected on April 27, 2007.

5. The long handwriting is the personal handwriting of Debbie Moore on the affidavit of verification April 27, 2007 is the handwriting of the witness also is Ms. Debbie Moore affidavit, dated April 19, 2006 and April 27, 2007.I asked Ms. Debbie Moore to write out any personal explanation and I would sign it, and also notarized that she is the party seeking to certify her documents for its trustworthiness and I explained to her that I would verify under the seal of my notary that she appeared before me on the same affidavit.

6. As a notary, I take acknowledgement of proof of business or writings relating to business or commerce and verify the same is my official duty under the seal of the Probate Court of Alabama.

7. I have to this extent advanced my personal knowledge that Debbie Moore was Van Lockwood's personal business administrator.

8. I have notarized also a one (1) page document for Debbie Moore,August 30, 2004. I also have verified the initials VL/dm to be the same as Van Lockwood and Debbie Moore initials, e.g., on Page 16-B, Pg. 2 of 3, line 11 on this document and other documents I take acknowledgement of proof of when I notarized them on April 19, 2006 and when I corrected them on April 27, 2007 to be the same as authenticated under the seal of my notary;

9. In which my commission is fully enforced, expires June 6, 2010, and I personally witnessed this to be her longhand in affidavit or verification, and personal appearance before me and I attest to all the other witnesses on April 19, 2006. This is my notary affidavit attesting to the corrections made April 27, 2007 in my business records to be non-disputed in the interest of a just cause that needed to be corrected and was corrected.

Appearing before me, Albert Lyles Jr.

and_____this 30 day August 2007.

County of Jefferson, State of Alabama
My Commission Expires May, 2011

PG. 3 OF ALBERT LYLES' AFFIDAVIT,
TOTAL PGS. FILED 3 ,

TO: United States Pentagon
Federal Credit Union
FROM: A. H. Aborishda,
(Member since 1976)
Acct. #
DATE : March 1, 2006
RE: A True Copy of Front/Back of
Check # 007517 -
Estimated Date: January 20, 2004

To Whom It May Concern at PFCU:

I am seeking the person with firsthand knowledge that would have been in first possession of check # 007517 in the amount of $500.00 made payable to Van C. Lockwood, endorsed to A.H.Aborishda. The check is needed for court document.

Please research the party that handled check at PFCU, # 007517 and certify me with a true copy of front/back of this check.Please advise me with a true official copy and certify the same in a short affidavit, or a short certified statement from the person having witnessed first possession, firsthand evidence, knowledge, and access to original check # 007517, back and front; as to whether or not the check's back copy had a release to: Beasley-Allen Law Firm,Atty. William G. O'rear, Jr., Robert Huffaker, Jr., Tolbert, et al V.Monsanto Company, et al - Case No: CV-01 -C-1407-S; United States District Court or any words or releases discharged or released to Edgar Gentle and/or Judge U.W. Clemon.

Clearly, I am seeking: expressed words or statements, such as negotiations, final payment of settlement in full, all claims funds, the settlement

Clearly, I am seeking: expressed words or statements, such as negotiations, final payment of settlement in full, all claims funds, the settlement administrator of the qualified settlement funds, and my lawyer(s) and their affiliates; to the full extent permitted under federal and State law.

If you have such statements or (any statement) implied or expressed on front or back of check # 007517 documented and presented to you (USPFCU) surrounding on or about the estimated date above in 2004, please certify a true copy of the same.

A. H Aborishda

Very truly yours, A. H. Aborishda

Lockwood's Ex A-112

From: Lori Rawleigh, United States of America Business Record, (PFCU) Front/back of check Proof copy no release without 155 words or numbers missing. A true copy before any alterations of check 007517

JUN-14-2006 15:24 EFT FRX

CLAIMS ADMINISTRATOR PAYMENT OFFICE
TOLLRITT GALLIPPED SETTLEMENT FUND
(SICKSEAKTOBOLOTIA SETTLEMENT)

007517

PAY TO THE ORDER OF Vus C. Lockwood

Five Hundred and No/100 DOLLARS

Vus C. Lockwood
234 Wobble Circle
Semmes, AL 36575

MEMO Advance Payment

⑆007517⑆ ⑆062000019⑆ 004244894⑈

⑈00005000⑈

Endorsement
Vus C. Lockwood
Pay to the order of
Pentagon FCU

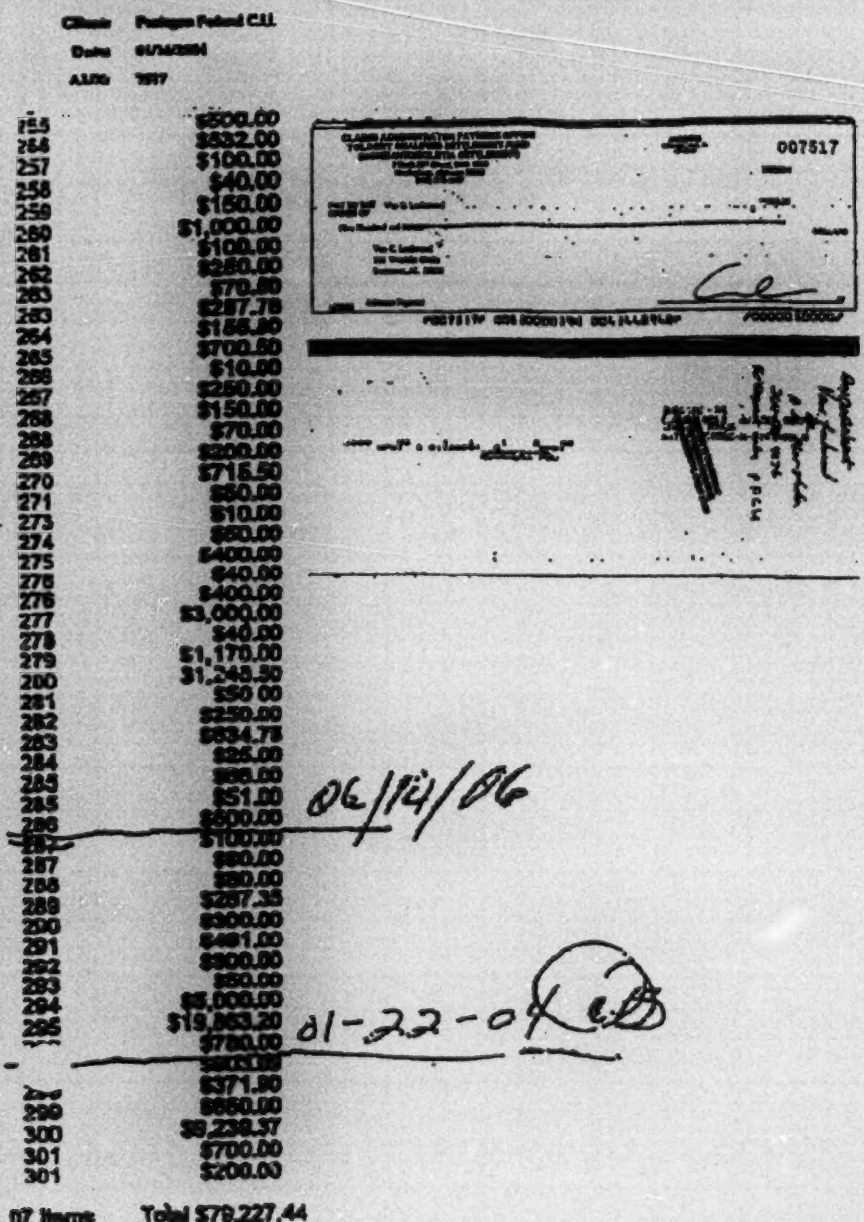
Client: Pentagon Federal C.U.
Date: 01/16/2004
AUX: 7517
Amount #: 42448943
R&T #: 062000019
Check #:
Trns Code:
Amount: $500.00
Bundle #: 3
Sequence #: 90
Dtn: 3791

Certified copy of an original:
County/City of Douglas
State of Nebraska
I certify this to be a complete, full, true exact reproduction of the original docum
Certified this 14 day of June
Notary Public
My Commission expires: Oct 17

GENERAL NOTARY-State of Nebraska
MARIE L. YANKEE
My Comm. Exp. Oct. 17, 2007

Lockwood's Ex A-112

From: Dick Lee, United States of America Business Record, (PFCU) Front/back of check Proof copy no release without 155 words or numbers missing. A true copy before any alterations of check 007517



Pentagon Federal Credit Union
PO Box 1432, Alexandria, VA 22313-2032
Superior Rates. Proven Service
www.PenFed.org

Date 6-15-06
Account No. xxxxxxxxxxx 1-6

Dear Member:

✓Enclosed please find the following document(s) to fulfill your request

✓Copy of check- number(s)_____
__Fee Charged $_____
✓__Fee Waived

__Copy of your statement
__Fee Charged $_____
__Fee Waived

___Check number____written for $_____was encoded incorrectly as check number_____.
___Check number____written for $_____ was encoded incorrectly for $_____. An adjustment has been made.

____In response to your request the following fee(s) have been refunded:
__Uncollected funds fee for $_____
__Insufficient funds fee for $_____

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,
Research Analyst/Accounts Servicing Branch